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VOTING TRUSTS

A CHAPTER IN RECENT CORPORATE HISTORY

BY

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I

THE SIGNIFICANCE OF VOTING TRUSTS

The history of American corporations may be roughly divided into an early period, in which corporate organization appeared chiefly in the development of banks and insurance companies, the later period of railroad expansion, and the modern period of the general application of corporate forms to mercantile enterprises. If a bank ceased to be solvent, holding only the assets usually acquired by such concerns and with no plant or real estate investment to be gradually developed, the natural result was the prompt winding up of the business, without any attempt at reorganization. When, on the other hand, the rapid expansion of railroads under ill-considered financial policies led to or threatened disaster, there existed the road itself which could not be abandoned and the saving of which required the concerted action of either the former owners or new investors or of both. Likewise, with many of the large mercantile corporations more recently established, financial embarrassment could not properly be met, by those interested, merely by writing off an investment, for the same reason that there usually existed a property or business of some intrinsic value which ought not to be sacrificed, and which might under proper condi-

tions be managed with some probability of ultimate success. Naturally thus the history of corporate development in the last forty years has been marked by the introduction and refinement of the reorganization agreement or readjustment agreement. Usually as an incident or as a result of these, and after experience showing the ineffectiveness of pooling agreements and deposit agreements in meeting the needs of the case, there gradually came into use the voting trust agreement.

In its early form the typical voting trust agreement evidenced little more than the stockholders' transfer of their certificates absolutely to trustees, or in some instances to a trust company, and the undertaking on the part of the trustees to deliver stock certificates on the expiration of the trust and in the meantime to distribute to the holders of trust certificates the amount of any dividends paid upon the stock. The powers of the trustees were, for the time being, those of owners of the stock, and the absence of restrictions indicates the complete dependence then placed on the trustees, both to meet any unforeseen contingencies and to take all steps which might seem to them appropriate. The development from the occasional use of this simple arrangement has been marked, however, both by a great variety of detailed provisions and by the application of such trusts to many concerns of substantial importance.

A discussion of voting trusts, in a period when not only concentration of property but even combinations

of mere influence have been subjected to severe criticism, naturally suggests a justification of what some still regard as an innovation of slight utility and of doubtful propriety. Such, however, is hardly more appropriate than a defense of corporate organization itself. Like every other detail or process in corporate affairs the voting trust may have been subject to such misuse as is inevitable when dependence is placed on the personal equation; but, on the other hand, while the object of some adverse comment, it has been much less harmful and much more productive of desirable results than most features of modern corporate development. It has not ordinarily been in itself a means of undue concentration, and not often has it been justly deemed even evidence of a purpose to bring about such a condition. Spoken of judicially as a "comparatively modern and useful device in corporate management" (*New York Law Journal*, January 19, 1914), the voting trust has come to be recognized both by conservative bankers and by investors as a desirable and effective adjunct of modern finance whose invention, and whose application to difficult situations, have been amply justified.

The significance of the voting trust in the modern history of corporations, from both the legal and the economic standpoints, is sufficiently indicated by the fact that stocks of such railroad systems as the Erie, Reading, Baltimore and Ohio, Chesapeake and Ohio, Seaboard Air Line, and Northern Pacific have earlier been thus controlled, and by the facts also that this form of control is now in force in the affairs of many

mercantile as well as transportation corporations, including local traction systems in New York, Chicago and Philadelphia, and has only recently been discontinued in the cases of the International Mercantile Marine Company and the Chicago Great Western and Southern railways. Indeed, no other detail of corporate organization is so peculiarly the result of recent experience or more distinctive of the modern theory and practice in the correct and satisfactory reconstruction of corporate business.

This method of temporary control was not infrequent even in the decade of the seventies, as was natural at a time when scores of issues of railroad securities were in default. Thus, in 1875 the principal stockholders gave up control of the St. Louis, Iron Mountain and Southern by transferring a large block of stock to Baring Brothers and Co. in trust, with power to retain the same for voting purposes until six months after the full resumption of interest payments. The earlier suggestion to lodge this stock with a committee was superseded by Mr. Marquand's offer to make the assignment to the banking firm, as he did "not see how any committee could be named that would so fully represent the bondholders' interest, and in which all parties would feel such implicit confidence as in Messrs. Baring Brothers and Co." Three years later, the holders of eighty-five per cent. of the company's bonds having agreed to the funding of arrears of interest on certain conditions, the holders of more than eighty per cent. of the stock acceded to the arrangement, and under the agreement of No-

vember 27, 1878, transferred their stock to Robert Lenox Kennedy and four other trustees, who were to vote it until one year after the period, subsequent to March 1, 1880, when the company should have paid the full interest on both classes of its income bonds. In March, 1880, the trustees gave notice of the termination of the trust, pursuant to one of its provisions, upon the request of the holders of the income bonds, the effect of which was, as stated at the time, "to put the shareholders again into full possession of the company, and enable them to do many things considered to be of advantage to the company, which the trustees, who were bound by the rigid terms of their trust, have not felt at liberty to do. In the general recovery of railroads from the prostration of 1873 there has been no company which has improved more rapidly than the Iron Mountain and none whose improvement has been more due to legitimate and solid considerations" (New York *Evening Post*, March 3, 1880). In 1875 it was likewise proposed to transfer the stock control of the European and North American (now a part of the Maine Central) for a limited period to the holders of the concern's floating debt, although the actual operation of the road for four years thereafter was in the hands of Hannibal Hamlin and William B. Hayford, trustees under one of the company's mortgages.

In January, 1880, some four-fifths of the common stock of the Atlantic and Pacific was transferred to John A. Stewart and two associates as voting trustees in order to insure a continuance of joint control by the

Atchison and the Frisco. As new issues were made, they were offered in equal shares to the stockholders of the two controlling companies, effecting a too close control, so that of the issue announced in January, 1882, one-third was released to bankers for the avowed object of making a foreign as well as a domestic market for the stock. The joint control was later extended so as to continue possibly until 1937, but in the meantime adverse conditions produced a rearrangement of the relations existing among the companies concerned. As early as 1872 the common stock of the St. Louis, Kansas City and Northern had been placed in the hands of four trustees "for the purpose of enabling said trustees to enforce the provisions of a contract relating to the interchange of traffic, which has been entered into, by and between the Pennsylvania Company, the Chicago, Alton and St. Louis Company, the Kansas Pacific Railway Company, and this Company;" and still earlier, in 1864, a voting trust in the Pacific Mail Steamship Company, under which a substantial portion of the stock was held by Brown Brothers and Co., had occasioned litigation in which the trust was sustained (*Brown* v. *Pacific Mail S. S. Co.*, 5 Blatch. 525; 1867).

The stock of the Pittsburg and Lake Erie Railroad was in October, 1877, placed under a trust perpetual in terms, which ten years later was overthrown by Cornelius Vanderbilt (*Vanderbilt* v. *Bennett*, 2 Rlwy. & Corp. L. J. 409). The reorganization of the Mobile and Ohio in 1876, completed in 1879, provided that voting power on the stock should be vested in the Farmers' Loan and

Trust Company, as trustee of the general mortgage, for the benefit of the debenture holders until the payment of the debentures, an arrangement which thirteen years later was unsuccessfully attacked (*Mobile and Ohio Ry. Co.* v. *Nicholas*, 98 Ala. 92; 1892), and which now is on a substantially different basis, as the Southern Railway (pursuant to the policy indicated in its offer of January 31, 1901) has secured a large majority both of the general bonds and of the old trust certificates, issuing against the latter its own trust certificates bearing four per cent. in perpetuity. The voting trust of the Texas and Pacific Railway expired, and that of the Midland Railroad of New Jersey was created, in 1880; and in 1882, when the proposed Mutual Union Telegraph trust was the subject of discussion, there was also executed the Standard Oil trust agreement, which was formally dissolved by the certificate holders in 1892. Thereafter, voting trusts increased in number and importance until, as often happens, their frequent use led to their application to situations in which no such arrangement was really necessary.

The Erie, under its various corporate names, was perhaps the system most productive of voting trusts as of other unique features in corporate history. The plan of reconstruction of the Erie Railway, December 14, 1877, provided for placing with three trustees representing the bondholders, one-half of the stock of each class of the new company (the New York, Lake Erie and Western) until the full dividend of six per cent. should have been paid on the preferred stock for three consecu-

tive years. Under this trust the English trustees yearly elected the company's board, and when the road's management was subjected to criticism in 1884, and when there was a "general discussion of the efficiency and satisfactoriness of voting trusts, which in some quarters are recommended as a panacea for the ills the English investors have experienced in the past," the English holders named as an investigating committee two of the three voting trustees, a coincidence which lessened the effect of the committee's comments. Some of the stock of the Atlantic and Great Western had been held in trust as early as 1868 (the year the road was leased to the Erie), and when this company was reorganized in 1880, as the New York, Pennsylvania and Ohio, all the stock was vested in five voting trustees, elected by certain classes of bondholders other than the "thirds," to be held until the third mortgage bonds (which were really fourths) should have received seven per cent. for three years. Under this plan also the voting trustees represented English investors. The management was not, and could not have been, successful; and "this old waterlogged piece of property, with its mountain of securities and unfortunate history and experiences," became a part of the Erie system in the reorganization of 1895, representing about $40,000,000, largely stock, and about $20,000,000 undisturbed securities, in the reorganization, as against pre-existing issues of nearly $170,000,000, largely bonds. Of the Chicago and Atlantic stock ninety per cent. had been delivered to President Jewett of the Erie, as trustee, to be held until the

payment of the company's first mortgage bonds and the repayment to the Erie of its advances for this western extension, a trust which led to litigation because of Jewett's futile attempt to retain control of the stock after ceasing to be president of the Erie, the court holding that the "facts abundantly show that" Jewett "was made trustee to hold the stock of the Chicago & Atlantic Company, with authority to vote it, because he was president of the Erie Company, and could be relied upon to control and manage the Chicago & Atlantic road as the western extension of the Erie line. If the Erie Company was expected to advance money to complete the construction of the new road, and to pay interest on the bonds, and thus take care of the credit of the Chicago & Atlantic Company, it was not unreasonable it should, in some way, be protected against unfriendly management of the new road" (*Farmers' Loan and Trust Co.* v. *Chicago and Atlantic Ry. Co.*, 27 Fed. 146; 1886). The same period witnessed the attempt of the Erie, following the pool of 1882, to control also the Cincinnati, Hamilton and Dayton through trust agreements, one of which (1882) was held to be void and the other (1886) held to be voidable (*Hafer* v. *New York, Lake Erie and Western Ry. Co.*, 14 Weekly Law Bull. 68; *Griffith* v. *Jewett*, 15 *ibid.* 419). The stock of the modern Erie, as reorganized under the plan of 1895, was again controlled by voting trustees, J. Pierpont Morgan, Louis Fitzgerald and Sir Charles Tennant, and when this trust was about to terminate in 1904, upon the payment of the required dividend, "holders of important interests

in the property" strongly urged the trustees to arrange for an extension of the trust for five years, in order that "important developments of the property" might be completed and "any untoward movement" prevented. A majority of the certificate holders declined, however, to concur in an extension and the system was finally in the direct control of the stockholders, subject only to the voting rights held by two classes of bondholders.

One of the most important, and most discussed, voting trusts was that of the Southern Railway, created under the agreement of October 15, 1894, extended by the agreement of August 27, 1902, and finally terminated as of July 31, 1914, by the surviving voting trustees, Charles Lanier and George F. Baker.

The most recent noteworthy application of the voting trust arose not as an incident of a reorganization in behalf of creditors but as a result of the pressure of the federal government in enforcing a "dissolution" of the New Haven system. In accordance with the decree, of October 17, 1914, of the United States District Court for the Southern District of New York, three sets of voting trustees were created, each consisting of five members, who also were made "officers of this court for the purpose of carrying this decree into effect." To ex-judge Walter C. Noyes and associates was transferred the entire capital stock of the Connecticut Company, then owned by the New England Navigation Company; to Rathbone Gardner and associates were transferred all the capital stock of the Rhode Island Company, owned by the New Haven itself, and certain shares

and bonds, owned by the New England Navigation Company, of the Providence and Danielson Railway Company and of the Sea View Railroad Company; and ex-judge Marcus P. Knowlton and associates took title both to certain shares, then owned by the New Haven, of sixteen companies leased to the Boston and Maine Railroad Company, and also to the entire common stock and all but about 28,000 shares of the preferred stock of the Boston Railroad Holding Company, which in turn owned the controlling stock interest in the Boston and Maine Railroad Company. The trustees in each instance have all the rights of owners, for varying terms which may extend over a period of about five years, subject only to certain directions as to the ultimate sale of the securities held by them, and subject also to detailed provisions of the decree and further orders of the court. They are furthermore authorized to issue, with respect to the property held by them, negotiable certificates of beneficial interest therein. In no other instance has there been an establishment, in a single transaction, of voting trusts of such significance, while their creation in this case by the order of a federal court may properly tend to neutralize any criticism of the procedure in judicial opinions.

The adoption of a voting trust has usually been incident to the rehabilitation of a corporation without foreclosure or to its reorganization through foreclosure, and the device has served as a form of prudent control either of the existing stock or of the newly issued stock of the successor corporation. Even in the earlier period, when stocks were issued in amounts and under circumstances

not later recognized as correct, the supposed equity of the stock was at times recognized if only by deferring its extinction, which in some cases was more than it was entitled to; and although a corporation might be practically bankrupt, yet its corporate life was extended and its stock issues left undisturbed, the actual control of the stock being subjected to a voting trust and practically turned over to representatives of the bondholders who either refrained from foreclosing or advanced new funds or did both. Thus, in the more recent period, the receivership of the Chesapeake and Ohio Railway was terminated (September 29, 1888) without a foreclosure sale, the holders of about 99½ per cent. of the bonds and 99 per cent. of the stock concurring in the reorganization plan of February 7, 1888, under which the first preferred and common stock were turned over to three voting trustees, J. Pierpont Morgan, John Crosby Brown and George Bliss.

A corporation with assets of a book value in excess of its bonded indebtedness, and with apparently some equity in its stock, might yet be unable to maintain its interest payments and avoid a receivership. The strict process would then be a foreclosure of the mortgage in default and a sale under conditions in which rarely could more than the amount of the mortgage indebtedness be realized, with the result that the title of the original corporation would be divested and its stock made worthless. This process, with its technically correct but unfortunate result, has ordinarily been avoided by the intervention of a purchasing committee

or reorganization committee or of so-called reorganization managers. These have directed their attention to devising a reorganization plan which would effect an equitable result among all parties in interest, also saving in part the precarious investment of the stockholders by allotting to them stock in the new corporation on fair conditions. The bondholders, or the committee representing them, are usually in a position to compel a foreclosure sale, and, if it is held, to control it in the interest of the bondholders alone and thus to eliminate the stockholders. While able in this way to dictate the terms of a reorganization, they have often admitted the old stockholders to participation in a reorganization on equitable terms, such as the payment of an assessment, properly requiring also that the control of the new stock should be so placed as to prevent a disturbance in the value either of the securities or of the stock itself. In fact, such certainty of careful management of the stock is often an essential element in securing the acceptance of a reorganization plan by those whose concurrence is indispensable to its success. The stockholder who wished to stand on his legal rights might of course do so, and omit to pay the assessment, and retain his valueless stock, as many have done. The only material effect on the reorganization of such election would be to decrease the amount of cash controlled by the reorganization committee and increase the amount of unallotted new stock or voting trust certificates which the committee might sell to the public, if necessary, or turn over to the new company.

While in its early form, as already suggested, the voting trust was simple and the power and discretion vested in the trustees closely analogous to those of legal owners, nevertheless by degrees limitations were imposed on the freedom of action of the trustees. Thus, it was provided that they might not consent to mortgaging the concern's property or concur in a change of its capitalization without securing the approval of holders of a stated proportion of outstanding trust certificates. Likewise the certificate holders were at times given a voice in deciding upon the dissolution of the trust, and in exceptional instances they have been given power to instruct the trustees, as with respect to the choice of directors and in other particulars. In general, however, the practical tendency has been to confine the functions of the voting trustees to the choice of a board of directors, the receipt of dividends and the distribution of amounts so received, and the discretionary power of terminating the trust. These functions, to be sure, comprise the normal purposes of the ordinary voting trust, and it is through the proper exercise of the first power stated that the real object of the trust is secured, that is, the maintenance of such a board of directors as will provide for the corporation an administration tending to establish and develop a consistent and continuous policy in its affairs.

Ordinarily, the object aimed at in a voting trust has been the protection of the bondholders, not indeed by actually improving in any technical manner the status of their securities, but chiefly by procuring for them

such practical advantage as may arise from a well considered conduct of a corporation's affairs. This attempt to strengthen the credit of a corporation, by withdrawing the actual control from those holding only stock, is natural in view of the fact that in most reorganizations the stock of the new company represents a much smaller proportion of cash investment than do the outstanding bonds. Moreover, the new bonds, representing to a greater extent an actual cash investment, could not be sold, and could not be successfully offered in a plan of reorganization, unless their value should be maintained not only by the usual legal safeguards but also by some assurance, in a binding form, of correct management.

This general object of a voting trust has been repeatedly recognized, and in a variety of terms. Thus, it has been stated as being an assurance of the "conservative management of the property" (Chicago Railways); and "to assure continuity of efficient and proper management" (International Fire Engine); and because it was considered "of importance that the policy of the present management should be continued" (International Mercantile Marine); and for "the express purpose of continuing the policy of the company as an independent organization" (Lehigh Coal and Navigation); and "to better secure an administration of the system independent of the control of all other interests, and for the better security of the holders of the bonds and stocks of the reorganized or new company" (Kansas City Southern); and as being "in furtherance of the independent reorganization

and administration of the property, and to promote and protect the value of the securities of the new company" (Northern Pacific); and "for the protection of the creditor class assenting hereto" (Philadelphia and Reading); and, often, "as additional protection to the new mortgage bonds" (St. Louis and San Francisco); and, as more fully stated in the Allis-Chalmers trust agreement, in order "to secure for the common benefit of the holders of the preferred and common capital stock of the Company impartial, stable and satisfactory management of the business policy and property of the Company and protection of the value of the enterprise during the period of five years." The purpose was well stated in the reorganization plan (May 25, 1903) of the United States Shipbuilding Company (although the voting trust was omitted from the amended plan of January 30, 1904) as follows: "To assure continuity in the management of the new corporation for a sufficient number of years during which the improvements and developments of all the properties of the United States Shipbuilding Company and the Bethlehem Steel Company are to be undertaken and completed, and to assure such management support and stability, a voting trust of the entire capital stock of the new corporation will be created to be in force for a period of seven years."

Such general statements merely illustrate the avowed object of the voting trust as usually expressed in reorganization agreements. Its specific purpose and its justification are still more clearly shown by the provisions of the voting trust agreement itself tending to

secure the object desired. Whether the new policy or the new management has been sufficiently tested and approved, and whether the stock may be safely released so as to permit a possible change of control, depends entirely upon the condition of the corporation's business. Whether this is at last soundly established is determined in a variety of ways, as shown by the different provisions for the dissolution of the voting trust on the happening of a stated event. Thus, it has been provided that the voting trust should, at the latest, be terminated whenever (often after a five-year period or other term) the general mortgage bonds had received four per cent. for two years (Central New England); when the first preferred stock had received four per cent. for three years (Colorado and Southern), or for two years (St. Louis and San Francisco); when the preferred stock had received four per cent. for two years (Mexican National) or five per cent. for three years (Northwestern Elevated); or, for an extreme case, when both classes of stock had received five per cent. for five consecutive years (Omaha Water). Whatever the test in a particular case, it has been such that if it should be met it might properly be assumed that the theoretical security of the bondholders had been shown to be actual, and that therefore the need for a close control of the stock had passed.

In the case, however, of a corporation with no bonds outstanding and no excess of liabilities over assets, the adoption of a voting trust may not be regarded as for the purpose of affording protection to security holders

or other creditors, but rather for the simpler purpose of insuring, for the benefit of a majority of the stockholders themselves, a control of the corporation which should guarantee for a reasonable period a satisfactory policy and a management of well-understood character. Where the stockholders are thus in a position to control a readjustment free from any dictation by creditors, the creation of a voting trust may be unnecessary and may appear to be undesirable. In few important instances has a voting trust been created under such circumstances, and then only for what were at the time apparently controlling or commendable reasons. As a detail of a voluntary arrangement by the stockholders themselves, in the conspicuous instance of the International Harvester (1902) a voting trust was formed, although naturally not prompted by any requirement of creditors. It is now plain that the new company represented a combination of earlier distinct concerns, and the adoption of a voting trust would have seemed justifiable simply in order to avoid the possibility of any change of policy due to natural differences of opinion among groups newly brought together, as well as in order to prevent the control under any contingency passing from those who had been instrumental in developing and reorganizing the industry. Thus, also, by arrangement among all the stockholders, in the case of the Bankers Trust Company (1902), the entire stock was subjected to a voting trust and not as a detail of reorganization. Especially in such instances, in which the holders of the entire stock agree to place their hold-

ings in a valid trust, there seems to be no ground for proper objection on the part of anyone, as the arrangement is one of free contract among the parties in interest. Even so early a critic of voting trusts as Governor Baldwin apparently would approve such a trust when based on the unanimous consent of all stockholders (1 *Yale Law Journal*, 11).

If the majority only of the stockholders, as in the case of the Guaranty Trust Company (1910), desire to create a valid trust for no illegal purpose there also can be offered no proper objection, although remonstrances of minority stockholders, and others, are not infrequently expressed. As a matter of fact, the interest of a small stockholder is ordinarily not jeopardized by such an arrangement, while it frequently is benefited. Objections by minority holders are usually based upon grounds of policy or of personnel. If on the former, the practical answer is that the choice of a prudent policy is as vital to the holders of trust certificates as to minority stockholders, and that voting trustees have seldom acted in a manner inconsistent with their trust, and usually indeed have had no incentive to do so. So far as objection has been raised on grounds of personnel, the objection itself states the case. The advantage herein of the voting trust is that for a fixed period the course of the concern is not guided by decisions on personalities. Such questions, or ambitions, are not infrequently at the beginning of contests for control among groups of stockholders; and seldom from these contests does any benefit arise to the concern itself. These of course

tend also to make a board's tenure uncertain and the endurance of any particular policy indefinite, and it is in the avoidance of these features that the voting trust has merited approval.

It is rare that a voting trust is so formed as to tend to insure a perpetual or even an unduly prolonged control by the voting trustees. Indeed, it is noteworthy that in few instances does it appear that such a trust has been created primarily for the purpose of maintaining control in the hands of those who might not otherwise be able, or entitled, to exercise it. On the contrary, in practically all instances of importance it is obvious that the design has been to secure and maintain control not for its sake alone, but to insure conservative conduct of the corporation's affairs for the benefit both of the security holders and of the stockholders themselves. Occasionally apparent exceptions even to such a statement will be found, as when at one time the voting trustees of the Central New England Railway held only slightly more than $50^{1}/_{13}$ per cent. of the total outstanding stock, or as when the voting trustee of the United Cigar Manufacturers Company held merely 51 per cent. of the common stock.

In the great majority of instances the voting trust has been only for the period of five years, a limit apparently adopted in recognition of the New York statute, and elsewhere used in imitation of what there has become practically a universal term, due to regarding as restrictive what may possibly be deemed a permissive phrase in the law (sec. 25, *Gen. Corp. Law*). Some,

however, have been for seven years (Denver Railway Securities), eight years (Deere & Co.) ten years (Chicago Southern, National Asphalt, Quaker Oats, Booth Fisheries), and fifteen years (Central American Growers, First National Bank of Tarboro). The provisions of the Chicago Railways participation agreement indicate that the voting power of the depositaries may endure at least for a twenty-year period, while that of the Atlantic and Pacific was originally for thirty years, and that discussed in *Warren* v. *Pim* (66 N. J. Eq. 353; 1904) was for fifty years. The voting trust in connection with the Chicago City and Connecting Railways Collateral Trust was drawn in such terms that it might continue during the lives of eight designated persons and for twenty years after the decease of the survivor (*Venner* v. *Chicago City Railway Co.*, 258 Ill. 523; 1913). Such trusts for more than five years are in fact exceptional, and one for the life of the corporation itself (Consumers Gas Trust) was indeed an anomaly. Very few have been, either in terms or as judicially interpreted, practically perpetual (Omaha Water), while one perhaps most indefinite in duration, and apparently incapable of termination by action on the part of the parties most interested, was in fact created by statute (New York, Ontario and Western).

The use of a voting trust has been criticised as readily tending to undue concentration of power, and while this criticism is in a measure correct, it is significant that in no important instance has power so acquired been abused. Indeed, responsibility has been more

specifically located, and a small body of trustees has naturally been more solicitous of acting correctly than is always the case with a temporary proxy committee or with a large board whose size alone tends to minimize the feature of personal responsibility. Moreover, the use of the voting trust has unquestionably produced fixity of well-considered policies, the maintenance of harmonious administration for a period sufficient to test such policies, and at the same time has secured the more consistent personal attention of advisers commanding the confidence of those whose capital was involved. Rarely, if ever, has a justified attack been made on the conduct of a well chosen group of voting trustees. To be sure, the voting trust of the St. Louis, Arkansas and Texas was later said to have been "established as a supposed protection for bondholders," and some of the early voting trusts in the interest of foreign investors received unfavorable comment due rather to conditions incident to absentee ownership than to the effect of the voting trusts. Occasionally, a voting trust has been used under such circumstances as to arouse criticism or misunderstanding, as in the cases of the Bankers Life Insurance Company (*Knickerbocker Investment Co.* v. *Voorhees*, 100 App. Div., N. Y., 414; 1905) and of the Parkes Manufacturing Company (*Sullivan* v. *Parkes*, 69 App. Div., N. Y., 221; 1902); and rarely a protective committee has even had authority from its depositors to institute an action for the dissolution of a voting trust, as in the case of the Seaboard Air Line (1904).

Some writers, especially before voting trusts had been examined with care, condemned them rather more freely than the facts and the law warranted. Thus it has been said (1902): "The collective counsel and wisdom of all whose interests are bound up in the corporation is supplanted by an alien and selfish voice in all measures which have to do with its success. The courts do not regard voting trusts with favor" (36 *Amer. Law Rev.* 222). Litigation has naturally produced many opinions illustrating both views on the general question, one of the most searching analyses being that of Justice Mahlon Pitney in *Warren* v. *Pim* (66 N. J. Eq. 353; 1904). The most noteworthy criticism of voting trusts, and one important chiefly because of its character as a congressional document, was that contained in the report to the House of Representatives of the so-called Pujo Committee (1913), which alluded in graphic terms to the "defenseless security holders" and to the absence of "any protection offered to the security holders against oppression or injustice" in the course of reorganizations resulting in voting trusts. Mention was significantly made of several voting trusts, all but one of which have now terminated, and with all of which a single banking firm was in some degree identified. No mention was made of other important voting trusts, as that in the Seaboard Air Line, and no evidence was introduced before the committee to demonstrate adequately whether voting trusts have in general been a constructive benefit or an evil. And yet it has been said of them: "They have very generally been op-

pressively imposed by large interests upon a prostrate defenseless property in course of reorganization where the interests were scattered, unable to protect themselves and virtually forced to surrender their voting power upon the demand of the reorganizers" (Samuel Untermyer, *A Legislative Program*, 1914, p. 25). The activity of the Pujo Committee is generally credited with influencing the dissolution of the voting trusts of the stocks of the Bankers Trust Company and Guaranty Trust Company, and it was later stated (before the Owen Committee of the United States Senate, 1914), that these trusts were "dissolved and disbanded as a direct result of the exposure of their existence" (*Testimony*, p. 77). But even this result was probably of no real advantage whatever to the companies concerned or to their stockholders, and indeed of no great significance, except as it served as an illustration of the importance of "public opinion" as represented by a congressional committee exhibiting, as to this subject, more vigor than thoroughness and more power of expression than of analysis.

As indicating the type of men usually chosen to serve as voting trustees, as well as the reason for such trusts, the following, from an anonymous correspondent, is significant: "Any one who looks carefully into the original formation of the Chesapeake & Ohio, Northern Pacific, the Reading, and the Erie Railway voting trusts, which have expired, and of the Southern and the Chicago Great Western voting trusts, which are still in existence (the six just named being the chief examples in this

country), will learn that, in every instance prior to the reorganization of the property, the bankruptcy of the road had been due to faulty management, and that it was impossible, in working out the reorganization, to secure the co-operation of the bondholders and of the stockholders (who, in the latter instance, were frequently compelled to pay heavy assessments), unless some warranty were given to these security holders that their recreated 'child' should be looked after by men of character until it outgrew its swaddling clothes. The only way to attain such a warranty was to persuade men of ability and character to give their names to the enterprise as voting trustees of the stock for the initial period of years" (New York *Evening Post,* December 21, 1912).

The motive in the proposal of a voting trust is illustrated by the circular of Kidder, Peabody and Co. (1889), as to the Atchison: "During the progress of the reorganization it has been frequently suggested in the public press and by numerous and large holders of the company's securities that it would give greater stability to the reorganized company if a management committed to the successful working out of the plan of reorganization, and absolutely in the interest of the property, could be secured for several years.

"Consulting our own inclination and convenience, we would prefer to leave the management of this great property to others; but we recognize the force of the suggestion and the necessity of some other arrangement, and, as many shareholders believe that great

advantages are likely to result to the holders of all classes of the company's securities from such co-operation, we have consented to act in the matter." The suggestion was commented upon at the time in the following terms: "Having reached this stage, it is natural to seek a continuance and further development of the good results already attained. In fact a perpetuation of the existing policy, and the keeping of control in present hands, appears to those directing Atchison affairs the one thing necessary to round up and complete the work of reorganization and renovation in a practical and satisfactory manner. Hence Messrs. Kidder, Peabody & Co. propose the establishment of a voting trust. The point which it is sought to guard against is of course the danger of having the property pass into the control of rival systems, or into the hands of unscrupulous and designing men, who would reverse the new policy and manage the property for speculative purposes" (*Com. & Fin. Chron.*, December 21, 1889).

This danger was well expressed by the voting trustees of the Southern Railway (August 27, 1902), who said that if the trusteed stock were to be released and dealt in on the market it would be "possible for the control of the Company to be bought and sold from day to day and" render "its policy and management subject to sudden and surprising change." And so, in the case of the Pittsburgh Coal Company, a voting trust was proposed in order to "prevent the control of the property passing to new interests to the detriment of the value of the shares, . . ."

The general purpose is also illustrated by the following statement as to the five-year voting trust of the New York and New England Railroad Company: "The repeated changes of management to which it has been subjected during the past twelve years has naturally had a bad effect upon its credit and its business. Railroad men have been averse to entering its directory and to taking a hand in the direction of its affairs, just because of the uncertainty as to their retention for a sufficient length of time to demonstrate what the road could do" (Boston *Traveler*, June 13, 1892).

In addition to such pertinent arguments in favor of the advisability of voting trusts, there should be borne in mind one practical consideration. The reviving of a helpless concern is usually, and naturally, entrusted to a banking firm or a group of bankers. They or their friends are expected in the end to market the securities of the reorganized company and they are entitled to take all proper steps both for protecting their customers and for insuring correct management of a company of which they are regarded as financial sponsors. As a director of a much reorganized concern, after one of its experiences, said concisely: "Naturally the people who put up the new money required voting trustees for the present time." Through fees as reorganization managers and commissions as syndicate managers their own remuneration, or profit, is usually secured shortly after the reorganization is consummated, and their interest might well then cease if they had no regard for the effect on their reputation of the result of their work. Their

possible profit in controlling future underwritings is negligible as compared with the effect on their business of having incompletely managed a futile reorganization.

Notwithstanding the apparent reasons for approving the establishment of such a trust in many instances, there has been considerable condemnation of the device. Thus the doctrine has been frequently advanced that each stockholder is entitled to the judgment of his fellow stockholders. As the functions of the stockholders are ordinarily restricted to the choice of directors, this doctrine would rest on the proposition that at elections each stockholder should express his individual choice in the manner most advantageous to the corporation. While not altogether overthrown by the recognition of the fact that the majority may vote practically as they wish and may indeed control the corporation (*Barnes* v. *Brown*, 80 N. Y. 527; 1880), and that the majority may act unwisely (*Matter of Argus Co.*, 138 N. Y. 557; 1893), the doctrine has nevertheless been now converted into a fiction by the mere development of corporations. It has become inapplicable, if for no other reason, by the increase in size of corporations. In a corporation with ten thousand stockholders, and even in one with a few hundred, it is impossible to apply a town meeting system to the selection of a group of individuals, especially where the selection has to depend on elements of personality which ordinarily cannot be helpfully debated in mass meeting. That the real exercise of individual judgment by the stockholders at large is not only a thing of the past, but indeed an impossibility, is

demonstrated by the facts that on March 1, 1915, the stock of the Pennsylvania Railroad Company was held by 92,225 persons and that, on December 31, 1914, there were 59,415 stockholders in the American Telephone and Telegraph Company. Thus the theory that "each stockholder is entitled to the presence of his associates to the end that they shall reason and be reasoned with," necessarily becomes entirely inapplicable. This line of suggestion has been waived aside as "the argument *ab inconvenienti*," and as presenting "a question rather for the legislature than for the courts" (*Warren* v. *Pim*, 66 N. J. Eq. 353, 399; 1904). It must be admitted, however, that the inconvenience is real and that its effects cannot be ignored even by the courts. As an authority has recently written: "Theoretically the stockholders elect the directors, but that theory has broken down as applied to railroads and other great corporations. The stockholders still have the power, but do not and cannot exercise it. They are multitudinous, widely scattered, many of them women and estates" (W. W. Cook, New York *Sun*, April 12, 1914). Such conditions render of doubtful weight a judicial statement that stock should be voted "according to the judgment of each individual stockholder for the benefit of the entire corporation" (*Harvey* v. *Linville Improvement Co.*, 118 N. C. 693, 699; 1896), and a decision, even in a case where proxies were not authorized, which speaks of "the obligation of all the members to assemble together" at a corporate election (*Commonwealth* v. *Bringhurst*, 103 Pa. St. 134; 1883). Never-

theless, the ideal conception of the stockholder's rights has not wholly disappeared, and has more recently been expressed, with a slight modification, as follows: "The real stockholder, at the stockholders' meeting, has a right to have the other real stockholders present in person or by proxy for the purpose of considering the well-being of the company" (*Bache* v. *Central Leather Co.*, 78 N. J. Eq. 484; 1911).

The recognition of such conditions has led to the development of the "proxy committee" as an agency by which the group administering a corporation secure two necessary results; the actual representation of a quorum at a stockholders' meeting and the election of a board in harmony with the existing policy of the corporation and presumably composed of the men best qualified to carry on that policy. The "proxy committee" is commonly organized each year, especially where this deference is due to statutory limitations as to the duration of proxies, and usually its selection is frankly at the instance of the existing board of directors. As such proxies often run in favor of three nominees, or a majority of them, or in some instances any one of them, the actual voting power is for the time being as closely held as ever by voting trustees, while the control of the stockholders' meeting is fully as effective. In some companies the practice is to ask the stockholder to give his proxy, with power of substitution, to any one of the directors, all the directors then possibly substituting the same person actually to exercise the vote. Thus, at a recent annual meeting of the New York, New Haven

and Hartford Railroad Company (October 28, 1914) the president of the company is reported to have exercised proxies with respect to more than sixty per cent. of the outstanding stock of the company and more than ninety-eight per cent. of that represented at the meeting. As a matter of fact the minority stockholder is seldom in such instances any more efficiently or independently represented than when his original stock is voted by voting trustees. While the practice indicated has become quite universal, it is interesting to note the contention that the use by the board of the company's funds in circularizing the stockholders for proxies, in order to assure to the board the control of the voting power, is unlawful (Brief of Clarence A. Seward, Esq., in *Woodruff* v. *Dubuque and Sioux City R. R. Co.*, 19 Abb. N. C. 437; 1887).

One criticism of the voting trust has arisen really from the circumstance that the existence of the trust may be unknown to the public, especially if the trust certificates are not listed on a stock exchange, and that there may thus be some implied misrepresentation to the public in holding out as directors, presumably elected by individual stockholders, those who are in fact chosen by the voting trustees. The apparent theory of this criticism is that directors so elected are not substantially interested in the corporation itself; but it has happened that in many corporations directors of importance elected by the stockholders themselves have actually owned only a few shares of stock, and even have first acquired stock after their election. Another

criticism is directed to the election of directors without any participation on the part of those who may be termed the equitable stockholders; but this is scarcely more objectionable than the system of election through the intervention of a proxy committee. In both cases the election may often be controlled by a very few individuals, with the important difference that the responsibilities of the voting trustees do not, like those of the proxy committee, end with the voting at a particular election. The real defect herein is due to the circumstance that in the more common forms of voting trust the holders of the trust certificates are in a sense a negligible factor during the term of the trust, particularly in those instances in which no provision is made for meetings of the certificate holders or other means by which their preferences may be expressed. If actual facts are duly considered, the conduct of a corporation whose stock is held by voting trustees is often not unlike that of a corporation whose stock is held directly by stockholders, for the reason that in many corporations the stockholders are so influenced or tied that the voting power of a majority of the stock may be practically controlled by very few stockholders. On the other hand, if these few are holding the stock as trustees there is established a definite responsibility and a new relation which usually makes impossible the use of the voting power in a manner that reflects purely personal or factional designs.

Another prevalent doubt as to the propriety of the voting trust has been based on the well-worn doctrine

of "public policy." It seems to have been assumed that a device at once so novel and so effective must be essentially iniquitous, and that such a trust is either wholly void or unenforceable on the ill defined ground of supposed repugnance to public policy, or, otherwise expressed, the policy of the law. When analyzed, these objections appear to be the expression of a conclusion unencumbered by reasoning, or, if embodied in legal argument, they are most commonly based on certain inapplicable theories. Thus, it has been objected that such a trust unduly suspends the power of alienation, an objection which is sufficiently answered by the suggestion that in practically every typical instance there has been no moment at which a complete conveyance of the shares, directly or indirectly, might not be legally effected. It has also been objected that the separation of the voting power from the ownership of the stock was in itself illegal, for some dimly stated reason, whereas in fact the voting power in the normal case continues to be attached to the legal ownership. It has further, for instance, been objected that the trust is an attempt to create a proxy for a term usually prohibited by statute, whereas the agreement does not constitute a proxy but evidences a change of legal title. Ordinarily, in other words, the conveyance is an absolute transfer, subject to certain agreements on the part of trustees, and not necessarily inconsistent with any type of public policy recognized by the law.

Adverse comments upon voting trusts are also based on a supposed analogy between a public, or political,

corporate body and a private corporation, and an application to the latter of the rule of the former that the majority should control. The next step is the suggestion that the voting trust prevents control by a majority and is inconsistent with democratic principles. A similar opinion has been expressed in the following terms: "The institution of the private corporation has been one of the great factors in the advance of modern society. It cannot exist without adherence to the principle of majority rule. But the majority must come honestly by their power, they must use it without injustice; and the majority in power must, at least once a year, be the majority in interest" (Simeon E. Baldwin, 1 *Yale Law Journal*, 15). Democracy, however, is not inherent in corporate organization, and may always be destroyed legally, as may a majority of individuals be nullified legally, by sufficient purchases in a single interest. Indeed, also, there "is nothing in the law to prevent the owners of a majority of the stock from giving proxies to the same person" (*Venner* v. *Chicago City Railway Co.*, 258 Ill. 523; 1913). In many early English corporations, as also in some modern instances, the aim was to place control with a majority of individuals rather than with a majority of shares by arbitrarily providing that an individual might cast only a specified maximum of votes regardless of how many shares he might own; and it is interesting to note that one writer suggests a return to this abandoned system. "'One vote per share' has a specious ring of fairness, but it is undemocratic. . . . Plural voting in moderation can be justified,

but this is plural voting gone mad" (The *Economist*, 77; 1135). The attempt, however, to model the meetings of a business corporation on those of a membership corporation or of the general courts of the old colonizing companies has disappeared in practice as well as in law, and has left the share and not the individual as the unit of membership, and the majority of shares rather than the majority of members the final authority in the modern business corporation. The "majority of the stockholders" means a majority in interest and not a majority in number only (*Bank of Los Banos* v. *Jordan*, 167 Cal. 327; 1914); or, as earlier stated: "It is the law of joint stock corporations that a majority of the stockholders in interest shall control in the election of the officers of a company, and its management" (*People* v. *Albany and Susquehanna R. R. Co.*, 55 Barb. 334, 368; 1869).

This review of the more obvious features, and of some characteristic expressions, incident to the history of the voting trust may serve also as a statement of the problems which its use has presented. The essential features, both of fact and of law, which have been thus briefly suggested will be considered in some detail in the following discussion, not so much with the design of either condemning or justifying the device, as of making plain the development and present position of the voting trust.

II

THE CONTENTS OF VOTING TRUSTS

The significance, object and effect of voting trusts, suggested in the preceding paragraphs, will appear more clearly from an examination of the contents of typical voting trust agreements, and especially of the provisions concerning the powers and obligations of voting trustees, the limitations upon the exercise of those powers, and the dissolution of such trusts.

As regards the corporation, the voting trustees are the owners of the stock registered in their names, and they consequently become entitled to receive dividends as declared. The complement of this appears in the agreement on the part of the trustees to pay to the holders of their trust certificates such amounts as may be received as dividends upon the stock held by them in trust. This usually appears only in the form of voting trust certificates embodied in the agreement, but should preferably appear also in the covenants of the agreement itself. In the event that a dividend is paid by the corporation, the voting trustees, as stockholders of record, receive the amount called for by the aggregate number of shares held by them, and this in turn they distribute proportionately among the holders of their trust certificates. As a matter of prac-

tice this process may be simplified by the filing, on the part of the trustees, of suitable dividend orders and by the distribution of the dividend by the company directly among the holders of the trust certificates.

Such an arrangement was incorporated in the Northern Pacific voting trust with respect to trust certificates registered in Berlin, registration there being "treated as the registration of the stock therein stated," and the trustees being authorized to arrange with the company so that the dividends on the stock represented by such trust certificates should be paid directly to the holders of the latter as registered in Berlin. A similar plan was followed in the voting trust of the Allis-Chalmers Manufacturing Company, the company agreeing to pay dividends, on request of the trustees, directly to the registered holders of trust certificates. In the case of the Maxwell Motor Company, however, the voting trustees simply agreed to pay the amount of dividends, as received, forthwith to the Guaranty Trust Company, their agent, for distribution among the certificate holders as registered on the books of the trust company.

It is obvious that if the voting trust were created under conditions allowing a stockholder to retain his stock instead of exchanging it for trust certificates, the practical position, as to dividends, of the non-depositing stockholder would be unchanged. If a dividend were declared, he would in such case receive it directly from the corporation instead of through the voting trustees, and he could also exercise the futile

power of voting on his shares of stock at meetings of stockholders.

The full amount received by the trustees as dividends may not always be distributed, as, for instance, it has infrequently been provided that the trustees might withhold the amount of their necessary expenses (Security Life and Annuity) or even an amount both for their expenses and for their proper compensation (Northern Pacific, 1893; Bankers Trust; International Agricultural Corporation). The Standard Oil trust agreement fixed a liberal maximum within which the trustees could determine their own salaries, which were payable out of the trust fund. In the voting trust of the Allis-Chalmers Manufacturing Company it was properly agreed, as the company was a party to the agreement, that the expenses of the trustees, as for counsel, agent and registrar, should be paid by the company. The trustees, in this regard, effaced themselves by the following unusual provision: "The voting trustees will make no charge for their services as such." In the case of the Philadelphia Rapid Transit Company, the company being a party to the agreement and apparently only for this purpose, it was provided that the company should pay the expenses of the agent, registrar and voting trustees and also "reasonable compensation for their services." This detail was made specific in the Chicago Great Western voting trust by stating the annual compensation which was to be paid to the voting trustees by the company, although the company was not a party to the agreement. The Erie plan of De-

cember 1, 1877, contained the provision, as to the voting trust, that "the expense of conducting such voting trust, including the remuneration of the voting trustees, shall be borne and paid" by the new company. The reorganization plan of the Omaha Water Company provided for a voting trust and also that the "expenses incurred in carrying out these provisions with regard to the control of stock are to be borne by the new company."

Ordinarily it doubtless happens that individual voting trustees are not paid for their services as such, although if also members of the reorganization committee they may receive compensation for services in that capacity, while their expenses, as for the charges of a depositary, the cost of preparing the trust certificates and the voting trust agreement itself, are provided for either by a reorganization committee or by the corporation itself, items which are properly charged against the corporation only when specifically assumed by the company or when all the stock is trusteed. Most voting trust agreements are silent as to any method of supplying funds for these necessary purposes, except in those instances in which a trust company serves as sole voting trustee.

There should be expressed in the agreement the obligation of the trustees to issue trust certificates for any further shares of stock that may be tendered to them, not only that the trust agreement may be equally for the benefit of all stockholders desiring to avail themselves of it, and may comply with such statutes

as those of New York and Maryland, but also to meet the case of the issue of trust certificates with respect to additions to the capital stock for new property (as occurred in the Chicago Great Western, 1913), or the case of the issue of stock by way of a stock dividend (as occurred in the International Harvester, 1910).

Provision should also be made to cover the case of an offer to stockholders of an issue of securities or new stock, in order that the trustees may subscribe for such an amount of stock as their certificate holders may elect to take. Such increase of stock within the period of the voting trust occurred, for instance, in the Erie, Baltimore and Ohio, American Gas and Electric Company, International Agricultural Corporation, and the Denver and Salt Lake. In such a case, the voting trustees should be empowered, if provided with funds by their certificate holders, to purchase such stock, or to sell the subscription rights for the benefit of those not concurring in such purchase. Such a contingency is indeed rarely anticipated by the terms of a voting trust, although in that of the Allis-Chalmers Manufacturing Company it was agreed that, in the event of the offer of new stock, a trust certificate holder might, at least two days prior to the last day for effecting subscription, deliver to the trustees funds and a suitable request, and the trustees would thereupon make the subscription and in due course issue a trust certificate with respect to the stock so taken (*cf.* Guaranty Trust; Richmond Radiator).

Offers of notes by the American Power and Light and

of convertible debentures and voting trust certificates for new common stock by the Baltimore and Ohio were not made to the stockholders, however, but directly to the holders of trust certificates, a method properly available when formally approved, as by the certificate holders authorizing the voting trustees to vote as stockholders to approve an offer of bonds by the company directly to the trust certificate holders themselves (Seaboard Air Line, 1906). The trustees as well should specifically agree to issue new trust certificates, in exchange for those surrendered, at any time during the continuance of the trust, thus giving to the trust certificates the same degree of transferability as stock certificates would ordinarily have; a detail which commonly is provided for only by an ordinary recital in the certificates as to the fact and method of transferability.

The trustees ordinarily agree that in voting the stock held by them they "will exercise their best judgment from time to time to select suitable directors, to the end that the affairs of the company shall be properly managed, and in voting on other matters which may come before them at any stockholders' meeting will exercise like judgment" (Erie; Northern Pacific; Southern; Bankers Trust). This recital is sometimes limited, as by the recital "in accordance with the purposes first above set forth" (Reading; Baltimore and Ohio). The voting power in this particular is sometimes subject to control by others than the trustees, either by the holders of the trust certificates (Central Fuel Oil) or by the holders of other securities

for whose benefit really the trust agreement may have been created.

In the case of the Atlantic and Pacific (1880) while the voting trustees nominally had the right to elect the board of thirteen directors, it was provided that they should elect six directors nominated by the Atchison, Topeka and Santa Fe and six directors nominated by the St. Louis and San Francisco, and should themselves actually choose the thirteenth director only if the two roads interested could not agree on a nominee. The plan of the Hudson and Manhattan Railway (1913) provided that as long as five per cent. had not been paid in any preceding year on all adjustment income bonds the voting trustees should elect as directors those approved or nominated by a meeting of the holders of the adjustment income bonds until one less than a majority of the board should be elected as so approved. In the plan of the People's Water Company the voting trustee was required to elect as the nine directors, four nominated by bondholders, four nominated by those having the beneficial interest in the stock, and a ninth director named by the eight thus selected. Thus, under the readjustment plan of the Philadelphia and Reading (October 1, 1894), which however was later abandoned, it was proposed that the stock should be held by the Central Trust Company and should be voted by it, in electing a president and half of the board of managers, as directed by the holders of the general mortgage bonds, and in electing the other half of the board as directed by the holders of the

"assented" stock trust certificates, until "all the coupons and interest purchased under this plan shall be paid and cancelled by the Railroad Company"; and thereafter, until the maturity and discharge of the general mortgage, it should be voted with respect to one-third of the board as directed by the holders of the general mortgage bonds, with respect to one-third of the board as directed by the holders of income bonds, and with respect to one-third of the board and the president as directed by the holders of "assented" stock trust certificates.

In the plan of the creditors' committee of the Central Iron and Steel Company (May 1, 1915) it was provided that during the trust, which was to endure until all the debentures and bonds of the new company were paid, of the nine directors elected by the voting trustees the bondholders, the creditors and the stockholders should each nominate one-third; and that after the debentures had been paid the bondholders should be entitled to nominate six directors.

Aside from the election of the directors, the actual voting power of the trustees, while of course subject to the terms of the stock held by them, may be limited also by the terms of the voting trust agreement itself. In the early instance of the South Carolina Railroad it was proposed that the voting trustees be subject to instructions by the holders of the second mortgage bonds. So in the case of the Mobile and Ohio the trusteed stock was voted under the control of security holders (*Mobile & Ohio R. R. Co.* v. *Nicholas*, 98 Ala. 92;

1892). In the case of the First Security Company the trustees were subject to directions by two-thirds of the certificate holders. Again, in the case of the Oregon Railroad and Navigation (1896) the trustees were, as to certain questions, subject to instructions from a majority of all certificate holders, and as to other questions from a majority of each class of certificate holders. An extreme limitation was expressed in the case of the International Nickel (1911, 1912), in which the voting trustees had power to vote on the election of directors, on approving the acts of the directors, on amending the by-laws, and on routine matters; but before voting on other matters they were obliged to secure instructions by letter from the registered holders of their certificates and vote on such matters "for each holder to the amount of his holdings as directed by him." Under the trust of the Bath Portland Cement Company the voting trustee, a trust company, was required to vote as instructed in writing by the majority of a committee of three appointed in writing by the holders of a majority of the outstanding trust certificates. Naturally, as in this instance, it is customary when a trust company is the sole voting trustee that the certificate holders are given a voice in controlling the choice of nominees for the board of directors, as well as in other matters.

The voting power of the trustees on certain subjects has often been specifically restricted, the trust agreement, to be sure, in some cases only adopting the terms of the company's certificate of incorporation, but even

in those cases restoring to the certificate holders certain rights which otherwise might be exercised absolutely by the voting trustees. One of the most substantial of these limitations is the provision under which the trustees agree not to vote in favor of the creation of superior rights, in the form either of additional preferred stock or of a new mortgage, without the express consent of the holders of a certain proportion of the outstanding trust certificates. This restriction appears not to have been common in the earlier voting trust agreements, and was not included even in that of the Southern Railway (1894), a circumstance which gave occasion for a practical illustration of the fact that voting trustees do not regard their position as an opportunity for power rather than an obligation of service. When, in 1906, it was proposed that the Southern Railway should place on its property a new mortgage of $200,000,000, the president of the company addressed to the voting trustees as holders of the control of the stock a formal letter approving the plan. The voting trustees, instead of proceeding to exercise their rights, indicated their policy by the following reply: "In a matter of such importance we should prefer to submit the proposition for the approval of the holders of our stock trust certificates before taking final action thereon, and this we shall proceed to do at once in order that we may be prepared when necessary to take such action in the premises as may be legally requested of us as stockholders." And yet it has been said that under this voting trust "the Morgan-Baker alliance have

absolutely controlled the property for twenty years, to the exclusion of the stockholders. . . ." (Samuel Untermyer, *A Legislative Program*, 1914, p. 20.)

This omission was supplied in the Reading reorganization plan (1895), and accordingly the Reading voting trust agreement (1897) provided that the voting trustees "will not, nor will any of them, consent that (1) any mortgage, additional to the mortgage of $135,000,000 heretofore authorized, shall hereafter be put upon the property formerly constituting the system of the Philadelphia & Reading Railroad Co., and Philadelphia & Reading Coal & Iron Co., or that (2) the amount of the first preferred stock of the Reading Company be increased, except after they shall in each instance have obtained the consent of the holders of a majority of the whole amount of each class of preferred stock trust certificates given at a meeting of such certificate holders called for that purpose, and also the consent of the holders of a majority of such part of the common stock trust certificates as shall be represented at such meeting; the holders of each class of stock trust certificates voting separately; or that (3) the amount of the second preferred stock be increased except with like consent by the holders of a majority of the whole amount of second preferred stock trust certificates given at a meeting of the holders of second preferred stock trust certificates called for that purpose, and also with like consent of the holders of a majority of such part of the common stock trust certificates as shall be represented at such meeting; the holders

of each class of stock trust certificates voting separately."

A similar provision had also been included in the voting trust under the reorganization plan of the Northern Pacific (1896). This led, in 1897, to the following comment: "One improvement we note in the more recent agreements like the Reading. It is with reference to the making of new mortgages or to the increasing of the preferred stock issues, the same rights being now reserved to the holders of the voting trust certificates as would belong to them as stockholders were the shares instead of the certificates outstanding. Thus in the case of the Northern Pacific the voting trustees are limited in their powers to the extent that they cannot authorize a new mortgage or increase the preferred stock without first obtaining the consent of a majority of the whole amount of the voting trust certificates representing the preferred stock and a majority of such amount of the voting trust certificates representing the common stock as shall be represented at the meeting called to consider the question. We do not imagine that the voting trustees, in the absence of such a provision, would think of performing either of these acts, but it is obviously proper that the rights of the stockholders should be so safeguarded" (*Com. & Fin. Chron.*, 64; 826).

Following the reorganization of the American Bicycle Company, the voting trust (of the Pope Manufacturing Company) provided that the "voting trustees will not, however, during the pendency of this agreement,

vote in respect of the shares of the capital stock of said Pope Manufacturing Company held by them to authorize any mortgage upon the property acquired under said plan and agreement of reorganization dated December 15, 1902, or any part thereof, nor to authorize any increase in the amount of first preferred stock or second preferred stock of said Pope Manufacturing Company except with the consent of the holders of three-fourths in amount of the first preferred stock trust certificates, nor to authorize any increase in the amount of second preferred stock of said Pope Manufacturing Company except with the consent of the holders of two-thirds in amount of second preferred stock trust certificates and two-thirds in amount of the common stock trust certificates of said Pope Manufacturing Company given at a meeting called by the voting trustees for that purpose, for which notice shall be given in accordance with the provisions of Article Tenth hereof, or by the assent or approval in writing of such holders of voting trust certificates filed with the Central Trust Company of New York."

This voting trust was terminable on February 1, 1908, before which time the concern became involved, and the 1906 reorganization plan of the Pope Manufacturing Company contained the following: "Provision shall be made that during the continuance of the aforesaid voting trust (1) no mortgage shall be put upon the property of the new company or any part thereof (other than the mortgage of deed of trust herein referred to) except with the consent of the

holders of two-thirds in the amount of the certificates representing the preferred stock and the holders of two-thirds in amount of the certificates representing common stock; (2) the amount of the preferred stock shall not be increased except with the consent of the holders of three-fourths in amount of the certificates representing preferred stock and the holders of two-thirds in amount of certificates representing common stock; and (3) the amount of the common stock will not be increased except with the consent of the holders of two-thirds in amount of the certificates representing preferred stock and the holders of two-thirds in amount of certificates representing common stock."

The two instances last cited indicate that the proportion coupled with such restriction may have some significance, and that, aside from any statutory requirements, the proportion used may vary with some relation to the fact that the organizers or the controlling interests expect to be either on the defensive or, inaptly stated, on the offensive. If the former, and they wish merely to be in a position with as small an investment as possible to keep conditions as at the outset and prevent any increase of securities, they will naturally introduce the requirement of consent by three-fourths. On the other hand, if they wish to be in a position readily to take affirmative action on the lines indicated, they will obviously seek to depend on the action only of a majority.

Similarly, the reorganization plan of the Southern Iron and Steel (1911) provided that there should be

no new mortgage or preferred stock except with the consent of the holders of a majority of certificates representing each class of stock. The Allis-Chalmers voting trust provided that there should be no mortgage created so long as any preferred stock remained outstanding except with the consent of holders of eighty per cent. of the preferred trust certificates as well as of eighty per cent. of the preferred stock. The United States Leather plan required the consent of eighty per cent.; the McCrum-Howell plan called for the consent of seventy-five per cent., and in the Chicago Great Western trust the consent of certificates representing a majority of preferred stock was required for the authorization of any new mortgage. The United States Motor plan (later the Maxwell Motor Co.) required for a mortgage or for new first preferred stock the consent of holders of trust certificates representing three-fourths of the first preferred stock and a majority of second preferred and common stock, and for new second preferred stock the consent of the holders of trust certificates representing a majority of the second preferred and common stock; but the trustees were allowed to vote, without the concurrence of certificate holders, for any increase of securities provided for in the reorganization plan of October 10, 1912. In the case of the Colorado and Southern any mortgage beyond the new first mortgage and any additional first preferred stock could be created only with the consent of the holders of certificates representing a majority of the first preferred stock. The voting trust of the International Mercantile Marine

provided that there should be neither any additional mortgage nor any increase of stock except with the consent of the holders of two-thirds of the outstanding preferred trust certificates.

Without here entering into unnecessary refinement, it is to be mentioned that in some cases such requirement, of two-thirds for instance, is so stated as to denote two-thirds of the particular class of trust certificates outstanding while in other cases it denotes the holders of trust certificates representing two-thirds of the particular class of stock outstanding, recitals which are not identical unless all such stock is held by the voting trustees.

In a number of trusts the trustees have been free to vote for an increase of stock without any consent from their certificate holders, the rights of the latter to share in the increase being protected. The instances described will serve to illustrate the general character of these limitations, the variety of which, in the details applicable to a particular situation, is very great.

The practical result of such restrictions is that the certificate holders, on the termination of the trust, if such requisite consents have not been given, receive certificates of stock bearing the same relation to the property and to mortgage liens upon it as did their stock when originally transferred to the voting trustees. The effect of the provision is to protect the substantial property rights of the certificate holders, and is therefore doubtless justifiable, although it involves a qualification of the complete exercise by the trustees of the

rights of legal owners. Such a qualification, however, by way of contract or declaration of trust is not deemed to be inconsistent with the rights of the trustees as legal owners or obnoxious to public policy.

Provision is usually made for the termination of the trust upon a number of contingencies. Thus, as to the more typical methods:

(1) It is commonly provided that the trust shall end on a certain date or not later than a specified date.

(2) It is quite as commonly provided, in addition, that the trustees may terminate the trust at any time in their discretion.

(3) It is quite frequently provided that the trust shall terminate when, and often after a given date, a certain event has happened, such as the payment of certain dividends or of certain interest charges.

(4) It is sometimes provided that the trust may be terminated, by sale or by distribution, by the trustees, either with or without the concurrence of the holders of a certain proportion of the voting trust certificates.

It is of course possible that all of these events of termination may be included in one instrument, but that rarely occurs, while other conditions of termination, as illustrated below, are sometimes included. Naturally it may be assumed that the larger number of voting trusts have terminated by limitation on the date fixed in the agreement (*e. g.*, International Harvester; International Agricultural Corporation; Metropolitan West Side Elevated; General Asphalt; Toledo, St. Louis and Western; United Railways of St. Louis;

Chicago Great Western; Pittsburg and Western; Cuyahoga Telephone; Wisconsin Central Railway).

The discretionary power of termination vested in the trustees is technically desirable, to avoid any claim of illegal restraint on the power of alienation, and it is also of practical importance, although the exercise of this power seems to have been comparatively infrequent (*e. g.*, Bankers Trust; Guaranty Trust; Colorado and Southern; Michigan State Telephone; Northern Colorado Power; Northern Pacific; Southern Railway; International Mercantile Marine). Seldom does a discretionary termination occur before the object of a voting trust seems to have been accomplished, as when the National Railroad of Mexico voting trust of 1902 was dissolved in 1903, apparently as an incident to new arrangements with the Mexican Government, and when that of the International Mercantile Marine was dissolved in 1915, after the company defaulted in the payment due October 1, 1914, on its bonds. In the latter instance the voting trustees "deemed it proper . . . to dissolve the voting trust so that the company's shareholders may be in a position to act independently as they may deem best for their own interests in case a readjustment of the company's finances and capitalization shall be necessary."

The discretionary power of termination under the Chicago Great Western voting trust was to be exercised on sixty days' notice and was subject to the unusual limitation that it should be "with the concurrence of the Reorganization Managers." The trustees have also,

in a ten-year trust, been empowered to dissolve in part or in whole at any time by unanimous action, or to dissolve in whole after seven years by the act of the majority (National Asphalt), while in the case of the Midland Valley the trustees were given the power of terminating after May 1, 1918, a trust which might continue until January 1, 1924.

Upon such a termination, the voting trustees formally adopt a resolution of termination or dissolution, a form of notice of such action, and a form of call for the surrender of the outstanding trust certificates in exchange for stock certificates. When the Northern Pacific trust was thus terminated, by the discretionary action of the trustees, prior to the date fixed in the agreement, the trustees also reported quite fully to their certificate holders (November 12, 1900), in part as follows: "Pursuant to the plan for the reorganization of the Northern Pacific Railroad Co., dated March 16, 1896, and 'in furtherance of the independent reorganization and administration of the property and to promote and protect the value of the securities of the new company,' Messrs. J. P. Morgan & Co., as reorganization managers, delivered to the undersigned, as voting trustees, under the terms of an agreement dated December 1, 1896, the common and preferred capital stocks of the Northern Pacific Railway Co., for which our trust certificates have been issued and are now outstanding.

"By the receipt of these Northern Pacific shares the voting trustees possessed and became 'entitled to exercise all the rights of every name and nature, in-

cluding the right to vote in respect of any and all such stock.'

"As stockholders of record, the voting trustees have received all dividends paid upon these shares and have caused the same to be distributed as received to the holders of the trust certificates.

"In voting the stock held by them, the voting trustees have exercised their best judgment, from time to time, in the selection of suitable directors, to the end that the affairs of the company should be properly managed.

"The annual reports issued and distributed by order of the directors during the past four years to the holders of the trust certificates and various securities of the company have given prompt and full information to all parties in interest, regarding the directors and officers selected, and the management thereby secured by the voting trustees in the exercise of their voting power and the administration of their trust.

"Although the first day of November, 1901, was fixed as the date for the expiration of this trust, yet it was provided that at any time the voting trustees might call upon the holders of the stock trust certificates to exchange them for certificates of capital stock.

"By reason of the evidence of financial strength, conservative management, skillful and profitable operation, superior physical condition of the property and the reasonable prospect of continued prosperity of the Northern Pacific Railway Co., the voting trustees, in the exercise of their discretion, have decided to now terminate their trust and to distribute on January 1,

1901, the shares of stock they hold in exchange for their outstanding trust certificates."

This step was commented upon at the time in the following terms: "The action last week of the board of directors of the Northern Pacific Railway Company in placing the common stock on a four per cent. dividend basis has been followed this week by a wholly unlooked for announcement that the voting trust in the shares of the company is to be terminated. . . . The action is somewhat unique. Men do not as a rule yield up power readily, for there is a certain fascination in the exercise of it that makes the holder reluctant to divest himself of it; hence the fact that in this instance the voting trustees of their own volition part with the control of this important railroad property speaks volumes both as to the character of the men themselves and of the wonderful results which have been accomplished under their wise care and judgment in the short period of four years since the new company was constituted.

"The reorganization of the Northern Pacific, as is well known, was the work of J. P. Morgan & Co. Mr. Morgan's house has on more than one occasion in the history of the road come to its rescue on critical occasions, but never did it render more efficient or important services on behalf of an embarrassed concern than when, in the thorough and drastic manner for which the house is famed, it undertook to place this large concern on its feet. . . . It is rather noteworthy that the voting trustees appear to be little concerned

to give prominence to their own part in the work. It would be difficult to find a stronger list of names than that comprising the voting trust, it consisting of J. P. Morgan himself and of August Belmont, Charles Lanier, Johnston Livingston and Dr. Georg von Siemens; but they cite the facts set out in the report simply to show that they are justified in the step they have taken in handing control of the property back to the shareholders—or (to use their own language) to furnish convincing proof 'that the purposes of our trusteeship have been fulfilled and that we are warranted in now dissolving the trust'" (*Com. & Fin. Chron.*, 71; 989). Likewise the voting trustees of the Southern Railway in announcing on June 30, 1914, their decision to terminate the trust, reported in some detail on their administration and set forth striking figures showing the comparative financial condition of the property at the beginning and near the close of the trust.

The dissolution of the trust on the occurrence of a specific event is logically the ideal process, and this happened, for instance, in the cases of the St. Louis and San Francisco, the Erie and the Reading, upon the payment of required dividends. The Frisco trust was terminable whenever, after five years, the first preferred stock had received four per cent. for two consecutive years, a result which was reached as of July 1, 1901. The Erie voting trust was to terminate whenever, after five years, the first preferred had received four per cent. in one year, which occurred

in the fiscal year 1903–1904. The Reading voting trust was to terminate whenever, not prior to January 1, 1902, four per cent. had been paid on the first preferred stock for two consecutive years, which condition was met by the payments made in the calendar years 1903 and 1904.

The result of what was naturally deemed a successful voting trust, especially in a system earlier productive of so much litigation, is reflected in the report of President Underwood of the Erie for the year 1904, while in other cases, like the Reading (October, 1904), upon a termination of a trust, statistics have been published which would seem eulogies of voting trusts although in fact the voting trustees would themselves be the last to decline to apportion much of the credit to the operating officials.

In addition to similar events of termination already referred to (page 17) may be mentioned the provisions for termination when the income bonds had received five per cent. for three consecutive years (Atchison, Topeka and Santa Fe, 1894 plan), when the first mortgage bonds had received four per cent. for three consecutive years (Colorado Midland), when the first preferred stock had received five per cent. in one year (Southern), and when the first preferred stock had received four per cent. for three consecutive years (Union Pacific, Denver and Gulf).

With respect to termination upon a specified event an extreme case was that of the Omaha Water trust, which was to continue until both classes of preferred

stock had received five per cent. for five years. "Whether the five consecutive years means concurrently or alternately" the voting trustees had power to determine. While the court held that the question before it was not whether the parties might lawfully make such an agreement, but whether in fact they had made such, it nevertheless said "These provisions have the earmarks, to say the least, of an intention to provide for substantially perpetual control on the part of the committee and their successors of property which the committee acquired in trust for the bondholders" (*United Water Works Co.* v. *Omaha Water Co.*, 164 N. Y. 41; 1900). The St. Louis, Kansas City and Northern trust was intended to be perpetual, as was that of the Pittsburg and Lake Erie, a detail which to-day, aside from the serious question of legality, would doubtless prevent the listing of the trust certificates on any stock exchange which scrutinizes new issues with the care shown by the Committee on Stock List of the New York Stock Exchange.

A most remote event of termination occurred in the case of the Consumers' Gas Trust (1887), an Indiana corporation whose articles of association provided that "the entire capital stock of the corporation shall be placed under the control of the board of five trustees and their successors, who shall be stockholders in said Company, which said board of trustees shall have full, complete, exclusive and irrevocable power during the continuance of this corporation to hold said stock and to vote the same as fully and completely as if they

were the owners of said capital stock, to elect directors as above provided, and to fill any vacancy that may occur in said board of directors. Said entire capital stock shall be voted as a unit, and, in case said trustees shall not agree as to how said stock shall be voted, the majority of them shall cast the vote of the board. If a vacancy should occur in the board of trustees by death, resignation, removals from the city of Indianapolis, or otherwise, such vacancy shall be filled by the remaining members of the board; and, in the event of the failure of such board to fill such vacancy the Marion circuit court shall, upon application of any stockholder, after said trustees shall have had ten days' notice in writing of such application and shall have in the meantime failed to fill such vacancy, appoint some competent person to fill the same." The articles of association also provided for the issue of trust certificates, and these as issued recognized the right of the trustees to hold the stock "during the continuance of the Consumers' Gas Trust Company as a corporation." Litigation over this extraordinary situation (*Consumers' Gas Trust Co.* v. *Quinby*, 137 Fed. 882; 1905) had to do not with the legality of the arrangement itself, but with the question whether, the company's principal authorized business having ended with the exhaustion of its supply of natural gas, the assets of the concern should not be distributed among the certificate holders.

Such inclusion in a certificate of incorporation of the essential facts of a prospective voting trust is

rather an inversion of logical procedure and is not at all common (*cf.* page 127). An early instance is that of the New York, Lake Erie and Western, the certificate of incorporation of which (April 26, 1878) not only set out in full the reorganization plan of December 14, 1877, but also contained the following provision: "In accordance with the provisions of a certain plan and agreement, which is hereinafter inserted, and is hereby made a part of this certificate, the power of voting in respect of one-half of the preferred stock, and one-half of the common stock to be issued by this corporation, shall be lodged with voting trustees, of whom Sir Edward William Watkin, Thomas Wilde Powell, Esq., and John Westlake, Esq., shall be the first. From time to time the voting trustees for the time being may fill any vacancy occurring in their body and may add to their number, and may exercise their power of voting by a proxy, appointed under the hands of a majority of them for the time being. This trust shall continue until the full dividend shall have been paid on the preferred stock for three consecutive years. The said half of the common and preferred stock, respectively, shall be actually vested in and held by said trustees. The persons entitled to the stock subject to such trust shall receive as evidence of their equitable ownership thereof, and of the right to receive any dividends declared thereon, certificates in the ordinary form of share or stock certificates, or as near as may be thereto, and transferable in the manner usual for such certificates, but each bearing

an endorsement, stating that such certificate does not give the holder a right to vote in respect of the shares represented by it, and that the same is subject to the voting trust aforesaid." It is to be noted also, in this connection, that the bonds issued under this reorganization of the Erie required for their validity the countersignature of the secretary of the voting trustees.

An event of termination of an unusual and quite indefinite nature was that of the New York, Ontario and Western, when it was authorized (*Laws of New York*, 1885, chap. 421) to issue bonds in exchange for its $2,000,000 preferred stock, the statute further providing: "Whenever any such exchange shall be made, the stock for which the bonds shall be issued and exchanged shall be transferred to and registered upon the books of the company in the name of Thomas P. Fowler, Richard Irvin, Jr., Thomas Swinyard, Charles S. Whalen and William F. Dunning as trustees for the New York, Ontario and Western Railway Company, who shall hold the same until all the preferred stock shall be so exchanged and transferred; and until that time the trustees aforesaid, and their successors, shall be entitled to vote upon any preferred stock so exchanged and transferred at all elections for directors representing preferred stock and at all meetings of stockholders, but such stock shall not have any rights to dividends as preferred stock or any other preferential right, except the right of voting as aforesaid." As early as March, 1886, all but $210,000 of this preferred stock was held by the trustees. As the preferred

stock of this company had the right to elect eight out of the thirteen directors until a dividend should be paid on the common stock, the practical result was that these trustees for the company controlled the board. When all but $4,000 of the preferred stock had been surrendered (1904) representatives of some $18,000,000 of common stock protested against the continuance of the trust, inaccurately assuming that the payment of a dividend on the common stock would terminate the trust. In January, 1905, the requisite dividend on the common stock was paid, and the control of the board by the voting trustees was ended, but the trust has nevertheless been prolonged until the present time. Since October, 1904, a bare majority of the common stock and $2,200 of the outstanding preferred stock has been held by the New York, New Haven and Hartford Railroad Company. The possibility of terminating this trust is shown by the application of the New Haven Company, August 17, 1912, to the Public Service Commission for the Second District of New York for permission to purchase these outstanding eighteen shares of the preferred stock of the New York, Ontario and Western, and by the further petition of the New Haven Company, November 7, 1913, for leave to withdraw its earlier application, which latter petition was granted.

A slight variation on common practice appeared in the 1914 plan of the Laramie, Hahn's Peak and Pacific (now the Colorado, Wyoming and Eastern Railway) which provided that the voting trust should con-

tinue until all accrued interest on the income bonds had been paid, and the current interest on those bonds had been paid regularly for two consecutive years, and thereafter for such further period not exceeding one year as the trustees might deem advisable, if lawful. A further development is in the instance of the First Security Company, in which the trust was created to continue for five years (*cf.* p. 20) "and thereafter until the same shall have been terminated by the written direction of the holders of two-thirds in interest of the stock certificates of the" First National Bank of New York or of its successor (Pujo Committee, *Testimony*, p. 1485). Under the Chicago Railways participation agreement (1907) the trustees, therein called the depositaries, were given voting power until August 1, 1912, "and, to the full extent thereafter which may be permitted by law, until all the Consolidated Mortgage Bonds of the Railway Company which may be issued pursuant to the provisions of the Plan shall be fully paid and discharged."

Still another event of termination was adopted in the Pure Oil Company trust (1895), which, with an excess of ingenuity, provided that the "agreement may be cancelled, and the trust thereby created dissolved, only by the winding up of the Pure Oil Company or by the consent in writing, duly executed, of the equitable owners of four-fifths of the shares held in trust hereunder, and of four-fifths of all the other shares of the company, after providing in full for the redemption or purchase, at one hundred and ten dollars per

share, in cash, of all the preferred and common shares of the company, at the time outstanding." The Standard Oil trust agreement of January, 1882, under which there were nine trustees, was to "continue during the lives of the survivors and survivor of the trustees in this agreement named, and for twenty-one years thereafter;" with the proviso that after one year the trust might be terminated by the vote of the holders of ninety per cent. of the certificates and after ten years by the vote of the holders of two-thirds of the certificates. Following the adverse results of litigation (*State* v. *Standard Oil Co.*, 49 Oh. St. 137; 1892), the trust was formally terminated (March 21, 1892) by the vote of 736,720 shares out of 950,000 shares outstanding. The reality of this dissolution was questioned in the subsequent litigation brought by the United States against the Standard Oil Company of New Jersey and others, the Supreme Court stating the contention as follows: "It was alleged that shortly after this decision, seemingly for the purpose of complying therewith, voluntary proceedings were had apparently to dissolve the trust, but that these proceedings were a subterfuge and a sham because they simply amounted to a transfer of the stock held by the trust in sixty-four of the companies which it controlled to some of the remaining twenty companies, it having controlled before the decree eighty-four in all, thereby, while seemingly in part giving up its dominion, yet in reality preserving the same by means of the control of the companies as to which it had retained complete

authority" (*Standard Oil Co.* v. *United States,* 221 U. S. 1; 1910). Another period was for fifteen years or the lives of A and B and the survivor, whichever should happen first (*Byington* v. *Piazza,* 131 App. Div., N. Y., 895; 1909), while one event of termination in the trust, created abroad and set aside here, of the Fisheries Company (a New Jersey corporation) was "when the last survivor of the now existing descendants of Her Majesty shall have been dead for twenty years."

Another type of the event of termination appeared in the Oregon Railroad and Navigation voting trust (August 19, 1896), which was to extend to August 17, 1906, but might be earlier terminated, among other methods, whenever the dividends on the preferred stock aggregated twenty per cent., or whenever an amount, in addition to dividends paid, sufficient to constitute such twenty per cent. on the preferred stock should be deposited in cash or its payment guaranteed by the American Surety Company or the Lawyers Surety Company or by a person or corporation of the City of New York satisfactory to the Central Trust Company of New York, the voting trustee, "it being understood that any such guaranty shall be for the payment on the first day of each successive calendar year thereafter, at the rate of at least four per cent. per annum, of the balance of the twenty per cent., theretofore unpaid." This method of termination was designed for exercise in behalf of the holders of the common stock, and it was provided that any dividends actually paid thereafter on the preferred stock within the period covered by the guaranty should

accrue to the benefit of the common stock. The trust was terminated (July, 1899) upon the guaranty of Kuhn, Loeb & Co., acting for the Oregon Short Line Railroad Company (which owned at least 162,814 shares of the common stock) to pay $1,100,000 to the holders of the $11,000,000 preferred stock, in instalments at the rate four per cent. per annum on such stock from July 1, 1899, to January 1, 1902. This guaranty, as the company had itself paid dividends aggregating ten per cent. on the stock, fulfilled the requirements as to the termination of the trust.

A method of termination introducing an event outside the history of the company itself appeared in connection with the Bay State Company (of New Jersey), the entire stock of which was placed in the hands of H. H. Rogers, John G. Moore and F. W. Whitridge, as trustees for the benefit of the Bay State Company (of Delaware), the trust to continue until the Boston United Gas bonds, first series, had been retired by the sinking fund or otherwise paid (*cf. Quar. Jour. Econ.*, 14; 104).

Referring to events of termination, mention should be made of the case of the Southern Railway. The original trust agreement (1894) provided for termination on July 1, 1899, if at that time the preferred stock had received five per cent. in one year, and if not, then whenever such dividend should be paid. It was correctly anticipated that the semi-annual dividend payable October 31, 1902, would be one of two and one-half per cent. and thus fulfill this condition, and that

the original trust would then terminate. Pursuant to the suggestions of the voting trustees, in their circular of August 27, 1902, an extension agreement was on that date executed by the voting trustees, to which the holders of a majority of the outstanding certificates had assented by October 31. The extension agreement provided that the trust should continue "until October 15, 1907, and thereafter until such day as a majority in amount of the holders of such stock trust certificates stamped as assenting to this agreement, shall, by vote on the date of the annual election for directors of the Southern Railway Co., fix as the date of the termination of such agreement and of the rights and powers of the voting trustees thereunder; without prejudice, however, to the continuing rights of the voting trustees in their discretion to cause to be made earlier delivery of stock certificates in exchange for stock trust certificates by them theretofore issued." The indefiniteness of the date of the termination giving rise to some question, the voting trustees, when the extension agreement had become operative by the stamping thereunder of a majority of stock certificates, announced (October 31, 1902) that they had then, under the authority conferred by the extension agreement, determined that it should terminate on October 15, 1907, and that the trust certificates would then be deliverable; but the trust was continued however until 1914. The supposed eagerness of stockholders to secure the release of their stock from such trusts is somewhat qualified by noting that as recently as July 6, 1915, Southern Railway voting trust

certificates to the amount of $80,674,100 had not been surrendered for stock certificates.

An actual termination of such a trust by the direction or concurrence of the certificate holders is uncommon (Lake Street Elevated, by eighty per cent. of the certificate holders; Texas and Pacific, by a majority; Colorado Midland, by a majority; Seaboard Air Line, March, 1908). In the case of the Quaker Oats Company the holders of a majority of the certificates, and in the case of the St. Louis, Rocky Mountain and Pacific the holders of three-fourths, have the power of termination. In the case of the St. Louis, Iron Mountain and Southern termination was made possible, and was later effected, on the direction of the holders of ninety per cent. both of the first preferred income bonds and second preferred income bonds; and in the case of the St. Louis and San Francisco termination was provided for on the concurrence of the holders of two-thirds of the certificates of each class, at any time prior to January 1, 1902. In the instance of the Loose-Wiles Biscuit Company termination is possible, prior to a certain date, by the direction of holders of three-fourths of the outstanding trust certificates. In the Atlantic and Pacific trust it was provided that the trust might be terminated by the vote of three-fourths of the directors of the three corporations involved, the Atlantic and Pacific, the Atchison and the Frisco. In the Chicago Great Western plan a dissolution was possible on the request of the holders of a majority of the preferred trust certificates and of sufficient common trust certificates to make a majority of all of both classes.

It sometimes occurs that the original object of a voting trust may not have been wholly accomplished during the term for which it was created. Under such circumstances it is customary for the trustees to request, and usually to recommend, that their certificate holders concur in a renewal of the trust. Thus the voting trust of the Keystone Telephone Company, of July 1, 1905, was modified and extended by the agreement of July 1, 1912, and was continued for three years more by the agreement of February 1, 1914. If holders of certificates with respect only to less than a majority of the stock concur in the suggestion, it is naturally deemed of no avail to complete the arrangements for an extension. If, however, holders of a majority in interest concur, the practice followed is the execution by the trustees either of a new trust agreement, substantially identical in terms with the original agreement except as to the date of termination (Bankers Trust) or of a supplemental agreement of extension (Southern; Interborough-Metropolitan; International Marine). Such having been executed, the trustees issue thereunder new trust certificates in place of those outstanding, or the original certificates are temporarily surrendered and appropriately stamped with an endorsement showing that they are subject to the agreement as extended. The original agreement itself (Interborough-Metropolitan) may provide for the steps to be taken as a preliminary to an extension, and it may contain an agreement by the parties to enter into such further agreement (Virginia Iron, Coal and Coke).

Another variation of ordinary practice, involving not

an extension in time but rather in form, was presented in the case of the Interborough-Metropolitan Company, in connection with the consolidation of that company with the Finance and Holding Corporation. The voting trustees of the common stock, in their circular of April 26, 1915, asked their certificate holders to give them a proxy to vote, as was done, at the meeting of June 1, 1915, for the consolidation, the proxy providing briefly: "the Voting Trust Agreement of February 6, 1911, to be effective with respect to such stock of the consolidated company as with respect to the present common stock of the Interborough-Metropolitan Company." However, it is sometimes provided in the voting trust agreement itself (*e. g.*, Guaranty Trust Company) that the trustees may vote in favor of a merger, the stock in the merged company acquired by the trustees being subjected to the terms of the original trust agreement.

A practical extension may be introduced in connection with a reorganization, as when the plan of consolidation of the Seaboard Air Line Railway, of January 12, 1905, provided as follows: "The present voting trust agreement may be dissolved in whole or in part and the stock or any part thereof held in trust thereunder may be delivered in exchange for the voting trust certificates. Stock of the New Company receivable by the committee in exchange for the shares of the existing Seaboard Air Line Railway so delivered may be deposited by the Committee under a new voting trust, limited in duration to a period not exceeding five years, with Trustees

selected by the Committee, and voting trust certificates under said new voting trust may be delivered by the committee to the depositors under the plan. Any stockholder of the New Company may deposit his stock under such new voting trust."

Even when all the stock has been in the first instance subject to a trust, an extension of the agreement provides the opportunity for the stockholders to withdraw their stock from the trust. Thus, after the extension of the International Mercantile Marine trust, two stockholders owning about 1200 shares, elected to take stock instead of new trust certificates, and in many cases the proportion of the stock held directly by individuals has been considerably larger. The possibilities arising from such a situation have provoked rather strenuous criticism not so much of voting trusts as of stock exchanges. It seems to have been the rule of the New York Stock Exchange, for instance, not to carry at the same time on the list of securities open for trading both the stock of the company and trust certificates with respect to other shares of the same issue, when the public hold only a small portion either of the stock or of the trust certificates and there is thus made possible a disturbance of the market by a corner of the stock or of the trust certificates requiring for its consummation a comparatively small amount of cash. It has thus happened, when trust certificates representing the larger part of a stock issue have been listed, that the stock certificates held by others than the trustees, when the aggregate is small, have not been listed. The latter

have not been so fully available for use as collateral as are listed securities, and this condition has been used rather inaccurately to illustrate the charge that a stock exchange may thus strengthen the control of the voting trustees by indirectly forcing into their hands much stock that ordinarily would be withheld. It is interesting to compare this criticism with the early and obvious suggestion that voting trusts tended to prevent purely speculative trading in stocks. The alleged discrimination, if such it is, may easily be given an exaggerated importance, because such a minority stockholder, even in co-operation with those in like position with him, could in no event have much effect on the policy or conduct of the business, while if he really wished a loan he might readily convert his certificate into a more acceptable form of collateral. In passing, mention of the minority stockholder suggests his customary first step in demanding from the corporation a list of its stockholders. This preliminary to a campaign of reform is not available in securing such a list of certificate holders from trustees who are not subject to corporation laws. It has occurred that the trust agreement has forbidden the trustees to supply such information except on prescribed conditions, and even without such a restriction it is improbable that they would comply with such a request. However, especially where the trust agreement provides for meetings of certificate holders, it would seem that such a request has a reasonable basis, and in time might be upheld by such courts as tend to treat trust certificates as quite analogous to stock certificates

(*e. g., O'Grady* v. *U. S. Indep. Tel. Co.,* 71 Atl. 1040; N. J., 1909).

The trustees in some instances have been given the power of terminating the trust by actually selling the stock held by them and distributing the proceeds among the certificate holders, and of doing this either at their discretion (Anthony and Scovill Company), or subject to the approval of a certain proportion of the certificate holders, or subject to some limitation as to price. While a provision permitting the surrender of the control of a concern may be somewhat inconsistent with the original design in the voting trust of holding and developing a property, still if the result of such policy produces an increase in the value of the stock one real object of the trust has been attained, and the trustees may thus procure a better return than could the stockholders, acting individually and without the power, except by some pooling arrangement, to deliver the actual control. For instance, the voting trustees of the Colorado Midland, with the consent of the holders of a majority of their certificates, sold the control to two other roads (1900). Thus also the voting trustees have been authorized to sell at a fixed minimum (Lehigh Coal and Navigation), merely to sell on the unanimous vote of the trustees (Louisville, St. Louis and Texas), to sell at par or better (Virginia Iron, Coal and Coke; Union Terminal Association), to sell on a majority vote of the trustees for not less than par (Chicago Southern plan) or to sell by a like vote at not less than seventy-five per cent. of par (Southern Indiana plan), or to sell

subject to the approval of a majority of each class of certificate holders (Toledo, St. Louis and Western; Toledo, St. Louis and Kansas City). When the ten years voting trust of the St. Louis, Rocky Mountain and Pacific common stock (1905) was dissolved in 1912, a new trust for five years was created, with power in the trustees either to sell all the deposited stock at not less than par or to sell all or any part of the deposited stock in excess of $5,500,000, at such price as the trustees might determine upon, subject to the right of depositors to elect not to participate in the sale. In another instance the trustees were given power to sell without restriction as to price, but subject to the limitation that the proceeds should be distributed among the certificate holders only after the claims of certain note holders had been paid (Milliken Bros., Inc., plan). As another method, the trustees may be empowered in the agreement not to sell the stock but to vote to sell the assets of the company (Jackson Company).

Under the Cincinnati, Hamilton and Dayton plan of May 24, 1909, the voting trust was to expire July 1, 1916, and on that date the Baltimore and Ohio (whose president was one of the voting trustees) was to be entitled to buy the controlling stock at a price to be fixed by arbitrators. Details as to the price were modified by a supplemental agreement, October 21, 1912, between the Baltimore and Ohio and the firm of J. P. Morgan & Co., as set out in the annual report of President Willard for the year ended June 30, 1914. Under the reorganization plan of the Staten Island Electric Railroad

(1902) the voting trustees were given the broad power to sell the stock on such terms as they might determine; and under the voting trust of the Long Island Railroad (February 1, 1897) the trustees agreed to sell a majority of the company's stock, reserving to the certificate holders their election as to participating in the sale (1900). In some agreements the element of possible sale has been the principal factor (*e. g.*, Baltimore, Chesapeake and Atlantic; Dubuque and Sioux City Railroad; Pacific Mail Steamship Company; Anthony and Scovill Company), and such agreements might naturally be held to create not a voting trust with power of sale but "a power of sale with an incidental provision in regard to voting" (*Hall* v. *Merrill Trust Co.*, 106 Me. 465; 1910).

While it may be said that the effect of certain of these provisions, especially as to the control of the board and over the dissolution of the trust, is to place too much power in the hands of the voting trustees, yet it is to be noted that they have in fact refrained from exercising as much power as they might. Thus, the voting trustees of the Southern Railway consulted the certificate holders before consenting to a mortgage; the voting trustees of the Northern Pacific and of the International Mercantile Marine Company elected to terminate their trust sooner than they were obliged to; and the voting trustees of the Kansas City Southern, when the voting trust was to expire shortly after an annual meeting (1905) adjourned the meeting in order that the board for the ensuing year might be elected by the stockholders them-

selves after the release of their certificates. It has also even occurred that trustees have voted for the election as directors of nominees of the minority interest (Reading, 1899).

The trustees also agree to deliver corresponding stock certificates, upon the surrender to them of the outstanding trust certificates, on the termination of the trust. The voting trust agreement or the certificate may state simply that the holder will be entitled on a specified date, or not before such a date, to receive a stock certificate for a number of shares equal to the number represented by his trust certificate; while the trust certificate usually recites also that it is issued under and subject to the conditions of the trust agreement therein referred to, such reference covering the cases in which the stock certificates may in the alternative become deliverable on a date other than the calendar date fixed in the agreement. The agreement should as well make it obligatory on the certificate holders, upon the termination of the trust, to accept stock certificates and surrender their corresponding trust certificates, in order that the trust may be completely dissolved in reality as well as theoretically. As it sometimes happens that trust certificates may have been lost, or that some certificate holders may not have received promptly the actual notice of dissolution, the duties of the trustees may be effectually terminated by providing that upon the dissolution of the trust the trustees may, after due notice, deposit stock certificates with a trust company (Interborough-Metropolitan; Allis-Chalmers; Guaranty

Trust), or with the company itself (Richmond Radiator) to be exchanged for trust certificates when surrendered, the duties of the trustees ending with such deposit.

When thus a voting trust has been terminated, and some holders of trust certificates delay the withdrawal of their stock certificates, if a meeting of stockholders should be held one slight practical difficulty arises from such delay. The trust certificate holder is not entitled to vote as a stockholder, and the trustees, although stockholders of record, are not entitled to vote under the agreement. This situation may be met, in some degree, by the trust certificate holder giving a proxy to the trustees in whose name his stock is still standing. This might serve to protect the trustees for any action thus taken, and might be sufficient unless the company itself should insist that, the trust having for all purposes expired, the trustees were thus disqualified from voting, and also that a proxy from the holder of a trust certificate could not be of any effect.

As to the personnel of the voting trustees, the choice of the first set is a practical matter controlled chiefly by the design of giving proper representation to all substantial interests concerned. Where the trust is created as an incident of a reorganization the trustees may be named in the reorganization agreement (Chicago Great Western; Northern Pacific; Wisconsin Central, 1899; New Orleans, Mobile and Chicago Railroad) or they may be the members of the reorganization committee (International Fire Engine; Interstate Telephone; Kinderhook and Hudson Railway; Missouri, Kansas and Texas;

United Button) or their designation or approval left to the reorganization committee (McCrum-Howell; Indian Refining Co.; Whitney Co.; United Coal Co.), although the committee's power in this regard is at times somewhat restricted. Thus, of three trustees only one was to be named by the committee and two by those supplying new funds (McCall Ferry Power). In an instance of seven trustees, only one was to be named by the committee and six by an individual acting practically as a syndicate manager (Denver, Northwestern and Pacific). In one case of the creation of a voting trust without any reorganization the members of the corporation's executive committee were named as voting trustees (International Nickel). In the case of the Kansas City and Memphis Railway, of the three voting trustees one was to be named by the company itself, one by the Kansas City Southern, and the third by a designated banking firm. In the Erie plan of August 20, 1895, it was provided that the three or five voting trustees should be appointed by J. P. Morgan & Co. and J. S. Morgan & Co. Often, if no other provision is made, their appointment is made by a reorganization committee under the general powers conferred by the reorganization agreement.

With respect to vacancies occurring among the voting trustees, after their selection and before the execution of the trust agreement, the reorganization plan may provide for the contingency, as by indicating specifically that certain parties may nominate to the vacancy. This situation was met in the Alabama Consolidated Coal and Iron and the Southern Iron and Steel joint plan by

the arrangement that, of the five voting trustees named in the plan, the place of Cecil A. Grenfell in this interim should be filled by the holders of certificates of deposit for stocks of the Southern Company, the place of A. J. Hemphill by the holders of certificates of deposit for bonds of the Southern Company, the places of Pliny Fisk and Henry H. Melville by the board of the Alabama Company, and the place of Edwin G. Merrill by the other four named in the plan. In the Philadelphia and Reading amended plan (December 14, 1886) it was provided that alternates for J. Pierpont Morgan and John Lowber Welsh should be named by the Syndicate, those for John Wanamaker and Austin Corbin by the "Board of Reconstruction Trustees," and that the alternate for the fifth position should be named by the four other voting trustees. In the Northern Pacific plan (March 16, 1896) it was provided that in case of vacancies occurring prior to the actual receipt of the stock by the voting trustees, the successors or substitutes should be appointed as follows: as regards the membership of Dr. Siemens, by the Reorganization Committee of which the chairman was Edward D. Adams; as regards the membership of August Belmont, by the Protective Committee of which Brayton Ives was chairman; and as regards the three other positions, by the Managers, J. P. Morgan & Co. In the Union Pacific, Denver and Gulf plan (September 29, 1898), in which were named the five original voting trustees, it was provided that in the event of death or incapacity of any of them "prior to the creation of the voting trust" the vacancy

should be filled by the survivors; while the reorganization plan of the Baltimore and Ohio provided that such a vacancy should be filled by the Reorganization Managers.

It is usually provided that any voting trustee may resign by delivering to the other voting trustees his written resignation, to take effect ten days thereafter (Bankers Trust; Baltimore and Ohio; Reading; Southern Railway); or the ten day provision may be omitted (Equitable Life). The procedure has been made more definite by the provision that the written resignation should be delivered at the office of the transfer agent of the voting trustees (General Motors); and the possibility of the remaining trustees failing promptly to fill the vacancy has been met, for example, by giving power to a trust company to nominate a trustee after the vacancy has remained unfilled a specified period.

If a vacancy should occur after the agreement has been executed, it is usually provided in the agreement that the survivors may fill the vacancy (Erie; Southern Railway; Equitable Life; Bankers Trust; General Motors; Reading). In the Toledo Railways and Light plan the seven trustees were treated as constituting two groups and a vacancy in either group was to be filled by the surviving trustees of the group. It has, however, occurred that the right to fill vacancies has been lodged elsewhere, as, for instance, in the provision that the successor of Dr. Siemens in the Northern Pacific voting trust should be nominated by the Deutsche Bank and elected by the remaining trustees. In the International

Harvester voting trust it was provided that the successor of George W. Perkins should be appointed by a specified banking firm, the successors of Cyrus H. McCormick and Charles Deering by, in each instance, a person named in the agreement, and on his failure to appoint by another designated person, and on the failure of both such persons to act, by the other two trustees.

Under the Baltimore and Ohio voting trust the successor of each of the five trustees was to be named, respectively, by designating banking firms or institutions, with the qualification that "such appointment shall in every case be confirmed by the other voting trustees by written instrument." In a similar way in the Interborough-Metropolitan voting trust of five trustees, the successors of two were to be appointed by a designated trust company, the successors of two others by a designated banking firm, and the successor of the fifth was to be appointed as follows: the trustee in question was empowered, within thirty days from the date of the agreement, to lodge with a certain trust company an instrument naming three persons to fill the vacancy in the order named, and if none of them served the vacancy was to be filled by the unanimous vote of the four remaining trustees. In the Chicago Great Western voting trust, the right to nominate to fill any vacancy among the trustees was retained by the Reorganization Managers, and in the case of the United Railways Company of St. Louis the power to fill vacancies was given to Brown Brothers and Company, who had

been Syndicate Managers, and was to be exercised by the surviving trustees only in case the bankers failed within ten days to fill the vacancy.

In the Wisconsin Central Railway trust (1889; to be distinguished from the Wisconsin Central Company and the Wisconsin Central Railroad Company) it was provided that a successor might be appointed by the surviving trustees, subject to approval in writing by the holders of a majority of both classes of certificates. In another instance, of the three voting trustees two were apparently operating owners and one a banker, and to safeguard against an ultra financial influence it was provided that while the successor of A, the banker, should be named by a designated banking firm, the successor of B should be named by C or C's successor and the successor of C should be named by B or B's successor, the banker having the power to nominate only in case his fellow survivor did not fill the vacancy within a limited period. In the plan of Louisville, St. Louis and Texas it was arranged that the successor of one trustee should be named by the holders of preferred trust certificates and the successors of the other two trustees by the holders of the common trust certificates. In an unusual case, provision was made that the five voting trustees should be elected each year, three by the holders of first mortgage bonds, one by holders of second mortgage bonds and one by holders of leased line bonds (Atlantic and Great Western); and in the Quaker Oats plan it was provided that the trustees should be elected annually by the certificate holders.

The trust agreement should, in the proper case, have suitable provisions with respect to the control of the trustees by consents or instructions given by the certificate holders, with respect to calling meetings of certificate holders, and also with respect to notices required to be given of such meetings. If the agreement does not require the request or consent of the certificate holders for any particular action by the trustees, and does not give them power over the selection of successor trustees or over the cancellation of the agreement, it may be unnecessary to provide either for any meetings of the certificate holders or for the giving of any notice to them. Where, however, they have any such powers, the exercise of such should be available either by concurrent instructions or by action taken at a meeting, and the method of calling such meetings, or of giving notice to file such instruments, should be more definitely set forth than is always the case.

It is interesting to note that the Standard Oil trust agreement of 1882 was much more liberal than most such agreements as to meetings, in that the trustees were required to call a meeting on the request of holders of ten per cent. of the outstanding certificates. While now, considering the more important instances, it seldom occurs that a trust company is selected to act as voting trustee, yet when this plan is followed four courses, at least, are open; that the trustee may vote the stock as it deems best (a detail at the basis of much criticism of early voting trusts); that the trustee vote the stock as directed by a committee; that the trustee vote for the

election as directors of nominees of specified parties in interest; or that the trustee vote as instructed by the certificate holders. In a case of the last type it is necessary to provide fully for meetings of certificate holders, and this was done with elaborate completeness in the voting trust of the Oregon Railroad and Navigation Company.

Prescribing any qualifications for the voting trustees is extremely rare, although as early as the Erie reconstruction plan of 1877 it was provided that each voting trustee should be a "substantial bondholder at the time of his appointment" and on ceasing to be such he should resign as a voting trustee; and in the case of the United States Pipe Line the single individual trustee was required to give a bond for the proper performance of his duties. In the case of the First Security Company it was provided that each trustee should become disqualified as such upon ceasing to hold one of certain specified offices in the First National Bank of New York.

The trust agreement may properly confer on the trustees the power to establish their own rules of procedure, a power which in any event would be naturally implied. Such rules relate to the detailed administration of the trust, such as the appointment and duties of their signing agents, depositaries, registrars and transfer agents. These appointments may in fact be incorporated in the agreement itself, and depositaries and registrars often are thus named, coupled however with a recital of the power of the trustees to revoke any such appointment and to fill the vacancy. While as agents for the

signing of trust certificates and as transfer agents the trustees not infrequently appoint individuals, yet these positions and also those of depositary and registrar are now more commonly, and usually more efficiently, filled by trust companies.

The agreement ordinarily provides that, except when otherwise specially stated, the act of a majority of the trustees shall be deemed the act of all, although in the case of the Western New York and Pennsylvania Railway (1895) it was provided that the trustees, or those present, should vote unanimously, and in exceptional circumstances unanimous action may be desirable (*cf.*, Equitable Life).

The action of the trustees may be determined upon at a meeting or, without a meeting, in writing; and frequently each voting trustee may be empowered to give his proxy as trustee to any other trustee; and the trustees themselves may often act through a joint proxy, such proxy being one of their own number or any other person as variously arranged for, and as often done without any special authority other than that possessed by a stockholder of record; but their freedom to vote through a proxy other than one of themselves has at times been restricted.

It is sometimes specifically provided that a voting trustee may serve as a director or officer of the company (Maxwell Motor), and although the recital may have no real effect by way of enlarging the power of the trustee, it serves often a proper purpose merely in stating practically that the trustees may vote in their own favor. As a matter of fact, the men chosen to serve as voting

trustees are selected because of qualifications which would make them valuable members of the board of directors; and in the Denver, Northwestern and Pacific Railway plan it was stated that the voting trustees should serve as directors. The voting trust agreement of the United Railways Company of St. Louis provided: "Any voting trustee hereunder may vote in person or by proxy for any other person, whether or not a voting trustee." On this subject a pertinent comment was made by the court in the case of the Philadelphia and Reading voting trust, in the following terms: "There is another point which may be touched lest it should seem to have been over-looked. The voting trust was originally intended to have five members. There are but four, one of whom, as it has been sworn, stands aside and will take no part in the coming election. The injunction affidavit avers that the remaining three intend to choose one of their number as president of the railroad. We do not wish to be understood as implying that such an election will be valid or can stand. Even if, as we think, the power of the trustees to elect is, from its nature, and because it concerns the public, one that may be exercised by a majority, it is still held in trust, and the votes cast should be disinterested and without personal bias. The question whether one of the trustees can vote for himself is not, however, raised by the bill or presented in the prayer for relief, and we do not, therefore, think it necessary to form or express an opinion as to the law" (*Shelmerdine* v. *Welsh*, 7 Rlwy. and Corp. L. J. 89; 1890).

Mention should be made of certain provisions which have not been commonly used, as:

that the reorganization committee might designate, as earlier was more frequently done, a corporation as sole voting trustee (Chicago Southern Plan, 1910; *cf.*, *Commonwealth* v. *Roydhouse*, 233 Pa. 234; 1911; *cf.*, Oregon Railroad and Navigation);

that the stock held by the trustees should be deemed also a pledge to secure the company's bonds (United Button);

that the voting trustees might pledge the stock to secure a syndicate that might underwrite certain bonds of the company (Chicago Southern plan);

that the voting trustees might pledge the stock to pay the debts of the company (Linville Improvement Co.);

that the voting trustees might sell the stock to pay the debts of the company (Anthony and Scovill Co.).

The number of voting trustees is usually three or five, and sometimes seven, while in one instance there were nine (Standard Oil), in another twelve, all apparently serving also as directors of the company (Louisville Home Telephone), and in another fifteen (Pure Oil).

The source of the trustees' title to the stock may be indicated in the preamble of the agreement, as by the recital that the stock certificates have been delivered to the trustees by the managers pursuant to the terms of the reorganization plan (Northern Pacific; Baltimore and Ohio; Reading), or by the committee under the reorganization plan (Erie; Southern), or directly by the

company itself on the order of the Reorganization Managers (Chicago Great Western), or that an individual has delivered the stock certificates to the trustees (International Harvester); or the chain of title may be shown by the recitals in the contractual portions of the instrument (Interborough-Metropolitan). The transfer of title may be from the several stockholders themselves, the agreement providing that stockholders may become parties to it by delivering their stock certificates to the trustees (General Motors); or the stockholders may become parties by actually signing the agreement (Bankers Trust) and therein agreeing to transfer their certificates. The converse of this should appear in an appropriate agreement on the part of the trustees, as to deliver their trust certificates to, or on the order of, the reorganization managers or reorganization committee, when the entire stock has been received from those parties; or merely to deliver their trust certificates to any parties surrendering stock to them.

The stock, when so delivered directly or indirectly by reorganization managers or by a committee, usually consists of the entire issue, less a number of shares reserved, either specifically or not, for use in qualifying directors. While these few shares are not usually vested in the trustees, it must nevertheless be the fact that the actual control of these certificates should rest with the trustees. This is necessary in order to qualify new directors in case of changes in the board, for with trust certificates outstanding representing all other shares it would be impossible to maintain the qualification of the board unless

these few certificates were at the disposal of the trustees. In the case of the Chicago Great Western eleven qualifying shares were excluded from the trust, in the International Mercantile Marine one hundred and ten shares, in the Denver, Northwestern and Pacific plan seven, in the Reading and the Northern Pacific trusts two thousand, in the Southern one thousand, in the Erie one hundred and in the Colorado and Southern fifty. Usually these qualifying shares are thus left informally without really beneficial owners. Nevertheless, provision has sometimes been made for the correct disposition of these qualifying shares (Bankers Trust; Richmond Radiator), as by specifically placing them in the custody of the trustees for the purpose indicated. Thus, in the case of the Indian Refining Company voting trust it was provided "that the Voting Trustees are authorized to transfer one share of stock to each of such persons as may be selected by them in order to qualify such persons to act as Directors of the Company, or to serve the company in any other capacity, and all certificates of stock issued for such purpose shall be endorsed in blank by the persons to whom issued, and shall be deposited with the Voting Trustees and held by them for the purposes of this agreement." This control of such shares was also given to the voting trustees under the Chicago City and Connecting Railways Collateral Trust, in which case the provision was indirectly attacked by an attempt to show that a director thus qualified was incapable of acting on the board, but as it was not shown affirmatively that the director in question did not also own a beneficial certificate no adverse ruling

was reached (*Venner* v. *Chicago City Railway Co.*, 258 Ill. 523; 1913).

So in the case of the Atlantic and Pacific, thirty shares were reserved to the Atchison to qualify its six directors, the same number to the Frisco to qualify its like quota of the board, and five shares were set aside for use by the voting trustees in qualifying the thirteenth director. Strictly, of course, these qualifying shares may not be represented by trust certificates except in such a case as that of the Indian Refining Company, and certainly should not be considered available for acquisition by the public. It may, however, occur that the voting trustees hold shares with respect to which their certificates may not be outstanding under the requirements of the plan of reorganization. Thus, in the case of the Wisconsin Central trust of 1899, the trustees held 233½ shares not represented by trust certificates; and in the case of the Philadelphia and Reading (under the amended plan of December 14, 1886) more than $250,000 of stock was not converted into voting trust certificates but was for more than five years represented only by the bankers' certificates of deposit.

As regards the custody of the stock certificates, it may be desirable, although not done in the earlier important trusts, to provide that a trust company be designated either by the trustees or in the trust agreement as depositary of the stock held by the trustees. This course was natural, for instance, when the stock in the Baltimore and Ohio owned by the City of Baltimore and the Garretts was deposited with a trust company, to be

voted for three years by the president of the railroad and his two nominees. In the case of the ordinary voting trust also it is the preferable procedure (Northwestern Elevated; Louisiana and Arkansas; Long Island Railroad; Michigan State Telephone; Lehigh Coal and Navigation; H-O Co.; Loose-Wiles Biscuit). A step further may be taken by providing that the stock shall actually be transferred into the name of the depositary, the Columbia Trust Company, for instance, being the record owner of the trusteed common stock of the California Petroleum Company.

For simplicity of statement, reference has been made to those voting trusts under which the execution of the trust was imposed on individual trustees. In many instances (Oregon Railroad and Navigation Co.; United Cigar Manufacturers Co.; Bath Portland Cement Co.; Ellis Granite Co.; Metropolitan West Side Elevated; People's Water) a trust company has been designated as sole voting trustee. When a trust company thus has the selection of directors, and the exercise of other powers, free from the control of the certificate holders, there is of course lost all benefit incident to the proper use of judgment and discretion by selected individuals, and such a trust cannot be designed, and cannot be expected, to produce the results possible when individuals are administering the trusts. More adequate results are obtained under such circumstances by granting to the certificate holders some share in the choice of directors and in otherwise determining in what manner the trustee shall vote the stock held by it. This is

natural, as the primary functions of a trust company in connection with a voting trust are those of depositary, transfer agent, and registrar of transfers, and that of agent of the trustees in signing for them and issuing trust certificates.

The parties to the agreement are the voting trustees on the one hand, and, on the other hand, may be either the reorganization managers (Northern Pacific; Reading; Baltimore and Ohio; Chicago Great Western), or the reorganization committee (Erie; Southern; Interborough-Metropolitan), or an individual holding title to the stock (International Harvester) or the several stockholders (Bankers Trust). In another form the only signatory parties may be the trustees themselves (General Motors; Maxwell Motor), the other parties being such stockholders "as may become parties to this agreement in the manner hereinafter provided." Rarely the company itself is a party (Oregon Railroad and Navigation; Pure Oil; Allis-Chalmers; Philadelphia Rapid Transit), and sometimes the trust company which serves as depositary of the stock held by the trustees (Michigan State Telephone; California Petroleum; Loose-Wiles Biscuit). While in a sense only a declaration of trust, it may be sufficient that the agreement should be executed only by the trustees, but where the entire *res* of the trust comes to them in a single transfer and with a variety of limitations it is appropriate, whether necessary or not, that those delivering the stock to the trustees should actually be parties to the agreement.

Extension agreements also are usually signed in the

first instance only by the voting trustees, but that in the J. I. Case Threshing Machine Company (November 16, 1914) for three years was signed by a single holder of trust certificates as well as by the voting trustees.

Provision is often made that every stockholder may become a party to the agreement by exchanging his stock for trust certificates (Loose-Wiles Biscuit; California Petroleum), and the propriety of this, aside from any legal necessity, is obvious. The Interborough-Metropolitan voting trust of common stock, of March 6, 1906, recited that the preferred stock might also be deposited thereunder. As the company stated: "This provision is included in said agreement for the purpose of complying with the provisions of the statute. It is not contemplated, however, that preferred stock will be deposited under the voting trust agreement." No holder of preferred stock requested the issue of voting trust certificates under this agreement, and none was issued with respect to preferred stock. After the extension agreement of February 1, 1911, however, certificates were promptly issued with respect to more than a majority of the preferred stock; but later a large part, if not indeed all, of these preferred trust certificates were surrendered and stock certificates issued in place thereof. The part of the statute of New York and Maryland applicable to the situation is as follows: "A stockholder may, by agreement in writing, transfer his stock to any person or persons for the purpose of vesting in him or them the right to vote thereon for a time not exceeding five years upon terms and conditions stated, pursuant

to which such person, or persons, shall act; every other stockholder, upon his request therefor, may, by a like agreement in writing, also transfer his stock to the same person, or persons, and thereupon may participate in the terms, conditions and privileges of such agreement; . . . ." (N. Y. *Gen. Corp. Law*, sec. 25; M'd *Code*, Art. 23, Sec. 102).

While the voting trust is supposed to insure a continuous administration by a chosen group it has nevertheless occurred that the control of the company has changed during the term of a voting trust, presumably as a result of the purchase of a sufficient quantity of voting trust certificates to entitle the new parties to recognition. Such a transfer having been completed, it has readily been followed by the resignation in rotation of a number of the trustees and the election to the vacancies of the trustees representing the new holders (Seaboard Air Line, 1903; Kansas City Southern, 1900).

It may happen that, far from the expected result having been attained, the company has become further involved and a reorganization has been necessary even during the term of a voting trust (Pope Manufacturing; Detroit Southern; International Mercantile Marine; Wisconsin Central Railroad; New York, Pennsylvania and Ohio).

The introduction of voting trustees in connection with stock pledged under a collateral trust indenture is unusual. Such stock is usually pledged under an agreement which provides that the trustees will permit the mortgagor company to vote on the stock so long as

there is no default under the trust indenture. However, in the Northern Pacific collateral trust indenture of May 1, 1893, a committee of five were named, as voting trustees in a limited sense, the trustees under the indenture agreeing that the sole power of voting on the pledged stock should remain in the committee irrevocably, and agreeing also on request of the committee to give proxies to its nominees, and to assign certificates of stock for the proper qualification of those elected directors. It was further provided that the railroad should pay each member of the committee a fixed sum for attending each meeting of the committee, and should pay all the necessary disbursements of the committee, including the salary of the secretary to be appointed by the committee.

A somewhat abnormal instance of a voting trust arose in connection with the New Orleans Terminal Company, the stock of which was owned equally by the Southern Railway and the St. Louis and San Francisco Railroad Company. The Terminal Company leased its properties jointly to the two railroad companies, each company agreeing to pay one-half of the interest on the Terminal Company's bonds, and also guaranteeing jointly and severally such bonds. For mutual protection the two railroad companies delivered their stock, aside from qualifying shares, to the Standard Trust Company of New York (since merged in the Guaranty Trust Company) under a voting trust agreement, the trustee agreeing to vote the stock as the two companies jointly directed and also to vote for three directors proposed by each company. The agreement also provided that if

either company should default in the payment of its share of interest under the lease, and the default should continue for three months, the shares of the company so in default should be forfeited to the company not in default. Such default occurring on the part of the Frisco, the receivers of that road brought action to enjoin the voting trustee from transferring their portion of the stock, and at Special Term an injunction *pendente lite* was granted, the court holding that this provision of the voting trust was really in the nature of security for debt and that the forfeiture clause might on the trial be held to be void (*West* v. *Guaranty Trust Company, New York Law Journal,* Jan. 19, 1914), but this decision was reversed, however, at the Appellate Division (162 App. Div., N. Y., 301; 1914.)

Mention has not been made of instances which might be termed testamentary voting trusts (*e. g.,* Florida East Coast Railway), or of the many cases of voluntary trusts formed to avoid the limitations incident to the use of corporate forms (*e. g.,* Chicago City and Connecting Railways Collateral Trust, New Hampshire Electric Railways, Massachusetts Electric Companies; *cf.,* Mass., *House Docs.,* 1913, No. 1788), or of the smaller number of what were practically voting trusts incident to a centralization of the control of several corporations (*e. g.,* Standard Oil Co.; *cf.* Eddy, *Combinations,* Chap. 16.). Nor, indeed, has it seemed necessary to mention specifically many normal voting trusts which illustrate no peculiar feature of practice or policy.

The foregoing examination of many typical, and some

unusual, provisions of voting trust agreements may enable one to judge certainly as to the reasonableness underlying their adoption and quite as clearly as to their propriety. It serves to illustrate the care and conservatism with which voting trusts have been created under the varying circumstances produced by corporate reorganizations. The provisions reflect, as well, the underlying purpose of such trusts, and, to some extent, the probable results of their use.

Reorganization committees do not ordinarily scheme for any more power than really seems to them necessary to carry into effect such a plan as they may vouch for. They do not usually impose a voting trust in order to prolong their authority. Commonly enough such committees, and the voting trustees who in a sense succeed to their responsibilities, are thankful indeed when their work is ended, whether or not it may be really completed. When they are able to develop, or even to satisfactorily preserve, a valuable property burdened by its past, there is some occasion for appreciation, although the gratitude expressed by minority stockholders toward voting trustees is not infrequently that defined as "an anticipation of favors still to come." The hostility to voting trusts has been largely an incident of the obvious ease with which they have been used as illustrations of the supposed operations of a so-called "money trust," while in the criticism the other side of the account has been obscured by rhetorical excess.

The result of the normal voting trust has been to insure to a company both stability and continuity of pol-

icy, simple features which are often of substantial material advantage to the concern and to all its stockholders. It provides certainty of really responsible management. It makes impossible any disturbing attempts at interference by minority stockholders, which is a reasonable and practical consideration to be recognized frankly and at times properly. It concentrates on a small group the duty of putting a concern into satisfactory condition, giving them both the legal power and the moral obligation to make a real effort to that end. It makes it possible for those in control to formulate a well considered program for the conduct of the business with the assurance that they may remain unhampered until the wisdom, or futility, of their plans has been demonstrated. The substantial advantages which voting trusts have produced certainly outweigh any criticisms to which they have been subjected, and it is not to be expected that these advantages can be successfully ignored by those who would by other methods give a species of "new freedom" to American stockholders.

III

THE LAW OF VOTING TRUSTS

The law relating to voting trusts was earlier somewhat uncertain, due in part to a lack of thoroughness and of exact analysis in many of the decisions on the subject, and due also in part to the fact that in a considerable proportion of the cases, no appeal having been taken, the state of the law rested on the opinion of a court of first instance. Suits involving the validity or effect of voting trusts have usually been commenced shortly before corporate elections and coupled with an application for an injunction, the decision on which has substantially determined the case so far as the pending election might be concerned, after which, unless substantial interests were at stake, the question at issue in the particular case has been permitted to become largely academic. Thus in the early litigation relating to the voting trusts in the Cincinnati, Hamilton and Dayton and in the Pittsburg and Lake Erie, no decision by a higher court was secured; the sequel in the latter case being the purchase of the control of the stock by the Vanderbilt interests. In the case of the Shepaug voting trust no appeal was taken, and the refusal of the courts to enjoin the Philadelphia and Reading voting trustees from voting the stock held by them was

apparently not reviewed. Nevertheless, questions relating to voting trusts have been before the courts in variety and frequency sufficient to produce a substantial body of law, from a brief review of which may be derived some principles familiar to lawyers and also not beyond the experience of laymen.

The commonest and also the most indefinite test applied to the validity of a voting trust has been its relation to public policy. The application of this rule has been as elastic as were the earlier standards of equitable relief, while the restrictive force attributed to public policy has varied greatly. On the one hand is the liberal doctrine which has been expressed by Justice Holmes, then Chief Justice, as follows: "We know nothing in the policy of our law to prevent a majority of stockholders from transferring their stock to a trustee with unrestricted power to vote upon it" (*Brightman* v. *Bates*, 175 Mass. 105; 1900.) And so in New Hampshire a voting trust was upheld with the comment that "Judged by the strictest rule of a stockholder's right to the free and honest judgment of his co-stockholders, the agreement here made by more than three-fourths of the stockholders is a legitimate arrangement for carrying out their purpose." After considering various cases on the subject, the court commented as follows: "Even the cases holding the particular agreements then under consideration to be invalid usually recognize the proposition that there may be a valid voting trust" (*Bowditch* v. *Jackson Co.*, 76 N. H. 351; 1912). So in a Vermont case, the court said: "The defendant says

that the agreement referred to amounts to a voting trust, and is therefore illegal and void. But this result does not necessarily follow. Such agreements are not illegal *per se*. Their validity depends upon the purposes they are designed to subserve. Where these purposes are lawful, stockholders may, in the absence of constitutional or statutory restrictions, suspend for a time the right to vote their stock and vest it in others who have a beneficial interest in it or the corporate business—as corporate creditors or a trustee for them" (*Thompson-Starrett Co.* v. *Ellis Granite Co.*, 86 Vt. 282; 1912).

This theory is also thus expressed: "There is no statutory provision, nor can we perceive any reason offensive to public policy, preventing a stockholder from giving another power over, or rights in, his shares in a corporation to the same extent that he might give in any property" (*Chapman* v. *Bates*, 61 N. J. Eq. 658; 1900). In citing this case, it was later said, in a minority opinion in *Warren* v. *Pim* (66 N. J. Eq. 353; 1904), in which however the court was divided seven to six: "It is now settled by a decision of this court that pooling or combining of stock, where the object is to carry out a particular policy with a view to promote the best interest of all the stockholders, is not necessarily forbidden." The dissenting opinion in *Bridgers* v. *First Nat'l Bank* (152 N. C. 293; 1910), states this view of the law as follows: "I am of opinion that such agreements among stockholders of a private corporation are not *per se* void or against public policy, but that their

validity should be determined by the propriety and justness of the ultimate purpose which is sought to be accomplished. This is now the generally accepted view. . . . There is no more objection to assigning certificates of stock in a private corporation in trust for a lawful purpose than any other property." So where three stockholders, together holding a control of the stock, agreed to vote all their stock as a unit and thus to elect directors and officers, the agreement was held not to offend public policy, as the owners of a majority of the stock might properly follow this course, their purpose being honest and free from fraud (*Faulds* v. *Yates*, 57 Ill. 416; 1870. *Cf. Weber* v. *Della Mountain Mining Co.*, 14 Idaho, 404; 1908).

The objection of public policy was likewise raised in the case of *Boyer* v. *Nesbitt* (227 Pa. 398; 1910), but the court upheld the agreement as containing "all the essential elements of an active trust." Repugnance to public policy was also unsuccessfully urged in connection with the trust of the stock of the Mobile and Ohio Railroad (1879). For the protection of the holders of the company's debentures the stock was deposited with a trust company, to be voted by it as directed by a majority of the debenture holders until the debentures should be paid. No more proper object of a voting trust may be found, and it is not surprising that the court found the agreement "not only valid but fair, especially as the stock had been voted for thirteen years" (*Mobile & Ohio Railroad Co.* v. *Nicholas*, 98 Ala. 92; 1892). A similar result has been reached in California

(*Smith* v. *S. F. & N. P. Ry. Co.*, 115 Cal. 584; 1897), where it was said not to be "illegal or against public policy to separate the voting power of the stock from the ownership. The statute authorizes the stockholder to vote by proxy; . . . The right to appear by proxy implies of itself that the voting power may be separated from the ownership of the stock, . . . " In Virginia also a voting trust has been held not "violative of the public policy" of the state (*Carnegie Trust Co.* v. *Security Life, etc., Co.*, 111 Va. 1; 1910). So in *Brown* v. *Pacific Mail S. S. Co.* (Fed. Cas. No. 2025; 5 Blatch. 525; 1867) Justice Blatchford said: "I am unable to perceive anything in this agreement contrary to public policy, or any wise open to objection." And to the same general effect is *Winsor* v. *Commonwealth Coal Co.* (63 Wash. 62; 1911).

On the other hand, the narrower theory is bluntly expressed as follows: "In short, all agreements and devices by which stockholders surrender their voting powers are invalid" (*Harvey* v. *Linville Improvement Co.*, 118 N. C. 693: 1896). The trust agreement in this case, which was to be effective only if executed by holders of a majority of the stock, was to continue for five years unless earlier terminated by the holders of two-thirds of the stock deposited, and gave a majority of the depositors power to instruct the trustees how to vote, and conferred on the trustees the power to pledge the stock for money to be borrowed to pay the debts of the company. There was here no impropriety or illegality of purpose, and yet the court unfortunately followed the

decision of *Cone* v. *Russell* (48 N. J. Eq. 208; 1891), a case involving a clear illegality of purpose, and then indulged in the extreme opinion quoted above.

The Harvey decision was followed in *Sheppard* v. *Rockingham Power Co.* (150 N. C. 776; 1909), a case in which the certificate holders had no control over the vote of the trustees, and the court treated the agreement as one depriving the stockholders of their right to vote, and so contrary to public policy and illegal; and was followed also in *Worth* v. *Knickerbocker Trust Co.* (152 N. C. 242; 1910), really a case of illegal conspiracy to damage the plaintiff, which assumed the law to be settled in that jurisdiction and spoke of "a voting trust, forbidden by the law." Stated otherwise, it is said to be the "universal policy" of the law "that the control of the stock shall be and remain with the owners of the stock. The right to vote is an incident of the ownership of the stock and cannot exist apart from it." (*Griffith* v. *Jewett*, 15 Week. Law Bull, 419; 1886.)

The proposition was expressed in one of several opinions in *Warren* v. *Pim* (66 N. J. Eq. 353; 1904), as follows: "Any arrangement that permanently separates the voting power from stock ownership nullifies, to the extent of the stock involved, the annual submission of the question of the management of the company to the stockholders. Where, as here, the arrangement includes a majority of the stock, and extends for a period of fifty years, it renders all annual elections in the meantime a hollow form." The trust in this case was possibly void for indefiniteness and uncertainty, and

presumably might have been held voidable as broader than the consents on which it was based. The opinions in the case comprise quite as elaborate a discussion of voting trusts as can be found and naturally led to some expressions which many courts would consider too sweeping. Thus it was said that the agreement was "not a putting of the shares in trust; it is a putting of false evidence of share ownership into the hands of the trustees." It was also suggested that the trust, not being coupled with any interest in the stock, was invalid, and that, there being no duty enforceable upon the trustees, it was a dry trust; although it had earlier been suggested by Justice Holmes (*supra*): "It might be held that the duty of voting incident to the legal title made such a trust an active one in all cases." Furthermore, Justice Pitney considered the particular trust void even if the ultimate purpose were beneficial to the company. "In our law the end does not justify the means." In *Railway Co.* v. *State* (49 Oh. St. 668; 1892), the court turned aside to remark, rather loosely, that if the agreement had vested the stock in trustees "with the power of voting it as their interest may dictate, irrespective of the wishes or direction of the owners," it would have been void as in conflict with the policy of the corporation law of Ohio.

The voting trust for a period of fifteen years in *Bridgers* v. *First National Bank* (152 N. C. 293; 1910), was overthrown on the bald ground of public policy, although the court admitted that in exceptional cases some good might be accomplished by such agreements.

"Yet, in our opinion, the general effect is vicious and in contravention of a sound public policy." The court's insistence on the ground of public policy was perhaps induced by its failure to substantiate the other and more technical grounds for the result it reached. It appears that in this case the reason for the creation of the voting trust was that there was danger of the bank falling under the control of one man, that apprehension of this had already led to some loss both of public confidence and of deposits, and that the stockholders were aroused to some action to prevent such danger becoming a fact. Under such circumstances, if under any, it would seem that a court might incline to use public policy, or public interest, as a reason for upholding such a trust.

So far as such violation of public policy is concerned, the courts of North Carolina occupy an unique position, supported in a degree by some of the decisions in New Jersey, but the great majority of courts which have considered the matter recognize that no orthodox rule of public policy is violated by the typical voting trust agreement.

Any review of opinions on this branch of the subject must necessarily verge on the field of mere dicta, chiefly for the reason that the type of public policy invoked is rather indefinite and is based on no clearly recognized principle of law. As stated by one author: "Some new class must be invented, and some new definition of public policy be found, before such a voting trust can be said to fall within any of the recognized rules which

avoid a contract as being against public policy" (Purdy's Beach, *Corporations*, sec. 704b). And, from another point of view, as stated by Justice Swayze, in *Warren* v. *Pim* (66 N. J. Eq. 353; 1904): "many of the arguments urged in favor of the view that voting trusts are contrary to public policy are arguments which would very properly be addressed to the legislature; . . . " Naturally, such an agreement would fall if it involved any element which, on generally recognized principles of law, and not applicable peculiarly to voting trusts, would render it unenforceable.

The specific ground most frequently taken by the courts which hold voting trust agreements to be repugnant to public policy is that they are illegal because the voting power on stock is separated from the legal ownership. As stated by Greenhood: "Any contract by which the owner of corporate stock deprives himself of the important rights which accrue from such ownership is void" (*Public Policy*, p. 502). The commentator states as a rule a proposition which cannot be maintained, and its fallibility is perhaps suggested by the fact that the only case cited in its support is that of *Fisher* v. *Bush* (*cf.* p. 121); although sufficient opinions, or dicta, may be cited both for and against the proposition, as, on one hand, *Bache* v. *Central Leather Co.* (78 N. J. Eq. 484; 1911), in which the court said that a contract for the separation of the voting power from the ownership was "a gross violation of the public policy of this state."

It is to be noted, however, that in the typical voting

trust the legal title is vested in the trustees who have also the voting power, and that the so-called equitable owners are merely in the position of beneficiaries of a specific trust and have not, and may not be entitled to, any of the incidents of legal ownership. The objection as usually made thus has little weight. It might have weight in those instances, if in any, in which the voting power of the trustees is subject in some degree to instructions from their certificate holders, for in those instances it might be argued that the legal owners should exercise completely and exclusively the voting power, although the restriction arises from contract and not from any qualification of their legal title. The criticism has not, however, been judicially directed to those instances, probably for the reason that the courts are willing to attribute as many rights as possible to the certificate holders and therefore do not disapprove any contractual arrangement by which the powers of the certificate holders or "equitable owners" are increased. In brief, the criticism has been expressed in cases to which it is not applicable, and has been overlooked in considering cases to which, if to any, it might be deemed applicable.

There is, indeed, some superficial inconsistency in vesting the legal title in trustees and at the same time permitting them to exercise fully the rights incident to legal ownership only through a breach of their trust. This limitation, however, seems to be justifiable on the ground, as already suggested, that there is nothing fundamentally improper in allowing the beneficiaries of

the trust some voice in the manner of its administration or in providing by contract that the beneficiaries may to some extent be enabled to instruct their trustees.

It has been suggested (10 *Harvard Law Rev.* 428) that if a stockholder may sell his rights to prospective dividends, he may quite as legitimately sell the right to vote which is similarly incidental to his stock, although the writer does not there base his approval of voting trusts on any such narrow ground. And Justice Swayze, in *Warren* v. *Pim* (*supra*), spoke of the right to vote as "a property right and a very valuable right." On the other hand, the sale of a stockholder's right to vote has been treated as analogous to the sale by a citizen of his right to vote at the polls, and therefore illegal, as in *Hafer* v. *New York, Lake Erie and Western* (14 Weekly Law Bull. 68; 1886), and in *Sheppard* v. *Rockingham Power Co.* (150 N. C. 776; 1909), but obviously the franchise to vote is distinguishable from a contract right. (*Cf.*, page 113).

As to the separation of the voting power from the legal ownership, a significant case is that of *Elger* v. *Boyle* (126 N. Y. Supp. 946; 1910), in which a testator directed that certain stock held by his testamentary trustees should be voted by them as directed by six persons named in the will. On the pertinent branch of the case Justice Bischoff's opinion is as follows: "I find no force in the contention that the trustees, as holders of the stock, cannot be controlled in their manner of voting. The power to vote stock incidental to owner-

ship of the stock itself may not be taken from the holder *in invitum;* but he may certainly qualify his ownership by his own consent that another may vote for him, as in the familiar instance of a vote by proxy, or may accept the ownership with a condition which involves this consent, as here. These trustees become possessed of the stock, not as their own asset, but solely by virtue of the will and of the conditions which the will imposed. One condition involved their consent to a restriction of their voting power, and no rule of law or of public policy is offended by giving effect to that consent."

On the other hand, where a will directed that one of three executors should vote on certain stock and that the other executors should give him a proxy, which they refused to give, the vote of the single executor was rejected, as the legal title was in the three and a proxy to one of the three could not be created by will. "The right of voting stock is inseparable from the right of ownership. The one follows as a sequence from the other, and the right to vote cannot be separated from the ownership, without the consent of the legal owner" (*Tunis* v. *Hestonville, etc., R. R. Co.,* 149 Pa. 70; 1892).

The separation of the voting power from the ownership of stock is perhaps deemed improper from a too high regard for the early history of corporations. The king's grant of a corporate charter was to his "trusty and well beloved" grantees, but the personal importance of the proprietors, perhaps even then somewhat fictitious, has no counterpart to-day in the relation to a secretary of state of the modern incorporators. The

"trusty and well beloved" were supposed to vote in person, if at all; and only gradually were they enabled temporarily to grant the voting power to others as the proxy was imposed on the common law. The extension of the statutory recognition of the proxy has been followed by its quite universal introduction and its actual use in many cases by those having no relation to the stockholder except that created from time to time by the proxy. Under such circumstances the voting power is often even more blindly alienated than is possible under the terms of a voting trust.

In passing on the accuracy of the proposition that there may be a separation of voting power from the ownership of stock, attention should be called to the practice of denying, for instance, to one class of stock any voting rights, a provision "which does not concern the public and does not violate any rule of the common law or any rule of public policy" (*People* v. *Koenig*, 133 App. Div. N. Y. 756; 1909), as well as the many instances in which corporations have also legally issued stock deprived conditionally of voting power, and those instances in which the voting power has been temporarily taken from outstanding stock, as at the time of the dissolution of the so-called "powder trust."

Even assuming that the legal title to the stock remains in the original owners, an assumption which can be maintained only with some difficulty, nevertheless there is ample authority for the proposition that stockholders may transfer their voting powers to others by a contract enduring for a longer period than might a statutory proxy.

Whether a practice or an agreement is in conflict with public policy is doubtless to be determined by tests which may vary from time to time. Subject to such fluctuating tests must be considered, for instance, the proposition that only the real owner of stock, or his proxy, should vote upon it. Doubtless in the early history of corporations the implied agreement was understood to be that each stockholder should vote personally if at all, while voting by proxy was not recognized as a common law right and only later was introduced gradually by special provisions.

While one may not sell one's proxy (*e. g.*, N. Y., *Gen. Corp. Law*, sec. 23; *Penal Law*, sec. 668), there is no illegality in one's selling or disposing of one's stock, subject to its reacquisition on certain conditions, and permitting the vendee, assignee or holder as legal owner in the meantime to vote on the stock. If to permit this infringes public policy, it is questionable whether the practice is not so general, in one form or another, as really to evidence a change in public policy, and to require some qualification of decisions which have purported to express the public policy of an earlier period.

Bankers and brokers are to-day the record owners of large amounts of stock, holding them either assigned in blank or not, the equitable title to which, either free or encumbered, rests in their clients or customers who permit the stock to be voted by those having its temporary possession and standing for convenience in their names as such record owners. In fact, it is probably true that at the stockholders' meetings of many large corporations

much stock is thus improperly voted, according to the earlier tests. Yet it is difficult to define the public policy, if any, which is by this fact alone violated. There is no duty unfulfilled, for there is no obligation to vote. There is no duty improperly performed, for if the unregistered equitable owner attempted to vote his offer would under normal circumstances be declined. A stockholder cannot compel other stockholders to vote, if they do not choose to do so; and he cannot require a change in the registration in others' certificates to conform to what he believes to be the fact as to equitable ownership. And as regards the corporation, its registry of stockholders is ordinarily conclusive as to the identity of the owner of the stock.

A case in point arises from the common procedure of closing the transfer books of a corporation for a certain number of days prior to a stockholders' meeting, with the practical result that stockholders of record may vote at a stockholders' meeting who may have ceased to be actual stockholders by selling their stock prior to the meeting and after the closing of the transfer books. The effect of this practice, embodied in statute in a few states, was emphasized in the case of *Bache* v. *Central Leather Co.* (78 N. J. Eq. 484; 1911), by the fact that the complainants owned stock, purchased after the books closed, on which of course they were unable to vote and which was in fact probably voted against them.

In connection with the same subject, attention may be called to the fact that in the past, as now, large blocks of American stocks were so held abroad that the

voting power was separated from what some would probably call the legal ownership. Thus, of large American issues earlier held in England, it was at one time estimated that probably less than five per cent. were registered in the names of the actual owners. As some of these stocks did not then pay dividends, it simply amounted at that time to an abandonment of the right to vote, the successive purchasers not troubling to have the stock properly transferred on the books of the companies. Later, as some of these stocks began to pay dividends, the obvious desirability of sending the certificates to this country for registration occasioned much inconvenience. In addition to this circumstance, it had even then been customary to send such American stocks abroad principally in ten share certificates, which, once endorsed in blank, were transferred repeatedly by delivery; but this practice was abandoned in England as the result of a holding that such certificates were not negotiable instruments (*e.g.*, *London & County Banking Co.* v. *London & River Plate Bank*, 20 Q. B. D. 232; 1887).

These two factors seem to have led to the adoption by the English of the practice, already known in Holland, by which large blocks of stock were registered in the name of some "administration," association or trust, which in turn issued its certificates (either of its own stock or of beneficial interest in the particular securities held by it) in smaller denominations and these latter served the purpose of local trading (*cf.*, *e. g.*, 4 Rlwy. & Corp. L. J. 47; 5 *ibid.* 290). The individuals

whose money was invested in these American securities had no power of voting on the stock itself, and often had not even the power of stockholders in a "holding" company. It may be chiefly for reasons of practical convenience that this system has continued to prevail, and yet, with such complete separation of voting power from the equitable interest, it is quite as obnoxious to the earlier "public policy" as any voting trust. Certain it is, in any event, that stock in large amounts and on frequent occasions has been voted by those who, although owners of record, have had no real interest in the stock itself, and in some instances have served merely as agents for the collection of dividends.

Likewise, for instance, a large amount of stock of an American corporation once stood in the name of a domestic trust company, against which stock the trust company issued its certificates of interest, for one share each, for distribution abroad. Mention should also be made of the unique arrangement in the voting trust of the Oregon Railroad and Navigation Company (August 19, 1896), by which the so-called equitable owner of the stock might be removed a further degree from the legal title. Under this agreement substantially all the stock was held by the Central Trust Company of New York, which issued the usual stock trust certificates. Then, as it was anticipated that these trust certificates would in some measure be held by residents of Massachusetts and Germany, it was provided that the owners might deposit their trust certificates with either the Old Colony Trust Company of Boston or the

Deutsche Treuhand-Gesellschaft of Berlin, and receive in return a trust certificate from one of these concerns, entitling the depositor to receive on its surrender, not a certificate of stock, but a corresponding trust certificate in the form issued by the Central Trust Company.

These instances have not been deemed to offend the public policy of the time, but have rather emphasized the fact that in this regard the public policy of the law may well be determined by the course of actual business requirements. In brief, however, it is to be borne in mind that in the typical voting trust there arises no question of any separation of voting power from ownership for the simple reason that the legal title to the stock is in the trustees, who have been recognized, for instance, as the "absolute owners of the stock."

Reference has already been made to the statutes of New York and Maryland permitting voting trusts, which are a conclusive answer to the argument that a voting trust is contrary to public policy. At the same time such statutes tend to regulate the use of a voting trust by two important requirements. A duplicate of every voting trust agreement must be filed in the corporation's principal office, where any stockholder may inspect it; and, secondly, any stockholder not a party to the agreement, as already pointed out, may subject his stock to such agreement and participate in it practically as if an original depositor. There is thus prevented an "inside" voting trust, and there is also avoided, as far as stockholders are concerned, a secret voting trust. As a matter of fact, it is now quite rare that a secret voting trust is created, even outside of

the states mentioned, while it is usually deemed of no particular advantage to attempt to exclude any stockholders from joining in a voting trust if they care to do so. Although the importance of these two features of the statutes is not to be underestimated, yet most bankers would certainly be disposed to comply with their object even without the compulsion of law.

The fundamental importance of the statutes lies in the definite recognition of the propriety of voting trusts. One question, however, left open by the statute, arises from its apparent ambiguity in stating that stockholders *may* enter into a voting trust agreement "for a time not exceeding five years," a provision which by some seems to have been interpreted as reading that stockholders may not enter into such an agreement for a time exceeding five years. The practical result has been that most voting trusts, drawn with the provision in view, have been either absolutely for a term not to exceed five years or for a term of five years and an additional indefinite period usually terminable upon the happening of some specified contingency. The latter and broader interpretation of the statute would seem reasonable if any weight is to be given to the statute of 1885 (*cf.*, page 62) as indicating the legislative policy of New York in this respect.

The complete text of the New York statute on the subject (*Laws of 1901*, chap. 355; followed in Maryland, *Laws of 1908*, chap. 240) is as follows:

"A stockholder may, by agreement in writing, transfer his stock to any person or persons for the purpose of vesting in him or them the right to vote thereon for a time not

exceeding five years upon terms and conditions stated, pursuant to which such person or persons shall act; every other stockholder, upon his request therefor, may, by a like agreement in writing, also transfer his stock to the same person or persons and thereupon may participate in the terms, conditions and privileges of such agreement; the certificates of stock so transferred shall be surrendered and cancelled and certificates therefor issued to such transferee or transferees in which it shall appear that they are issued pursuant to such agreement and in the entry of such transferee or transferees as owners of such stock in the proper books of said corporation that fact shall also be noted and thereupon he or they may vote upon the stock so transferred during the time in such agreement specified; a duplicate of every such agreement shall be filed in the office of the corporation where its principal business is transacted and be open to the inspection of any stockholder, daily, during business hours" (*Gen. Corp. Law*, sec. 25).

Courts have held voting trusts to be void, or have refused to enforce rights asserted under them, as they have done in the case of ordinary contracts, when the object or the consideration of the agreement has been illegal. This result has been reached for a variety of reasons.

Thus in *Cone* v. *Russell* (48 N. J. Eq. 208; 1891), one of the parties secured proxy rights for a period of five years in all, which would give him control of the stock, for the consideration that he would cause such a board of directors to be elected as would employ one of

the parties to the contract as manager for five years at a stipulated salary. If the object had been a proper one, and in any sense directed toward the advantage of the corporation or of its stockholders at large, the court would doubtless have approved the arrangement, as it recognized that "the propriety of the object validates the means." So, a pool of a majority interest in stock, for the purpose of insuring among the parties an agreed division of the places on the board, was held void and against public policy; and the court consistently declined to aid the plaintiff in enforcing rights alleged to have been violated by a breach of the agreement (*Bridgers* v. *Staton*, 150 N. C. 776; 1909). However, where the plaintiffs owned the entire stock of a corporation and sold a controlling interest to the defendants, a contract by which the parties agreed that the plaintiffs should retain their offices and salaries for five years was upheld, the court considering that the purchase price might practically be paid in part by this method, particularly as the holders of the entire stock were parties to the agreement and "no one else could complain" (*Katzler* v. *Bensinger*, 214 Ill. 589; 1905).

So, one stockholder may not sell his stock coupled with an agreement that the vendee be appointed to a certain office with a stated salary (*Fennessy* v. *Ross*, 5 App. Div. N. Y. 342; 1896; *Guernsey* v. *Cook*, 120 Mass. 501; 1876); nor may the holders of a majority of the stock agree in bad faith to control the board and raise their own salaries (*Snow* v. *Church*, 13 App. Div. N. Y. 108; 1897). The same result was reached where the princi-

pal object was to secure the control of a corporation, and while a contract for the purchase of stock for such a purpose may not be necessarily void, yet the court doubted whether "sound public policy" demanded that it should aid the parties to such a contract by a degree of specific performance (*Gage* v. *Fisher*, 5 N. D. 297; 1895).

Illegality involving a restraint of trade was the basis of condemning the agreement in the Genesee Valley Canal Railroad Company (*Fisher* v. *Bush*, 35 Hun, 641; 1885), which was held to be "not such and so limited as to time and place as not to be condemned as against public policy." The agreement was also held void because not based on a real and special consideration, and also because of the "pernicious and unlawful provision" by which the parties agreed to vote in person and not by proxy. Had the technical details been adequately provided for, it would seem that the agreement might have been upheld, as its express purpose was to prevent a sale of the company's franchise by a majority of the directors who represented only a minority of the stock. The element of restraint of trade may naturally figure also in those voting trusts whose effect is to subject one corporation to the control of another, as in the Cincinnati, Hamilton and Dayton cases, and also in such trusts as that of the Standard Oil, and this element alone might render probable the overthrow of such a trust. Thus, in *Hafer* v. *New York, Lake Erie and Western* (14 Weekly Law Bull. 68; 1886) the fundamental objection was raised that the trust had the effect of

putting the company into the control of the Erie, which was alleged to be beyond the legal power of the Erie, and that the stockholders improperly attempted "to confer their rights to vote upon the directors of another company."

So also, if the trust agreement is interpreted as creating an illegal restraint on the power of alienation it will not be enforced. Thus where the stock was absolutely tied up although only for six months, it was held that the agreement, "if not void as being contrary to the statute, is certainly unenforceable as against public policy" (*Williams* v. *Montgomery*, 68 Hun, N. Y. 416; 1893). The court continued: "Persons cannot agree to surrender the control and ownership of property belonging to them for a definite period, and enforce such an agreement in any court of justice." A similar result was reached in *Sullivan* v. *Williams* (69 App. Div. N. Y. 221; 1902), where the possible duration of absolute inalienability was fifteen years. But the decision in *Williams* v. *Montgomery* was later modified (148 N. Y. 519; 1896), and under the facts it was found that there was no unlawful suspension, and the rule on the subject was there quite clearly stated. In the case of *Moses* v. *Scott* (84 Ala. 608; 1887), the stock had been subjected to a three-year trust, each party also giving to the other parties a refusal on the stock. One of the parties sold his stock, and the vendee sought to vote on it. The other parties sought an injunction restraining the vendee from voting, but the court held that it would not aid the enforcement of the contract, as it was a "palpable restraint on the

alienation of property," although the court admitted that there was nothing *per se* illegal in the arrangement since it was possibly not so binding as to prevent a withdrawal of deposited stock; in other words, it was treated really as a case like those decided on the theory of a revocable proxy.

The stock trust of 1877 as to the Pittsburg and Lake Erie Railroad, being expressed in terms to give the trustees a perpetual control of the voting power, was held by the court to be against public policy as depriving the owner of his voting rights; the court assuring the result desired by the plaintiff by holding that, if the position stated was wrong, the agreement at most constituted only a revocable proxy (*Vanderbilt* v. *Bennett*, 2 Rlwy. & Corp. L. J. 409; 1887). The case naturally afforded a better basis of attack on the ground of effecting a perpetual restraint on the power of alienation. The voting trust in the Wisconsin Central Company was submitted to a high authority on perpetuities and held to be free from objections on the ground of remoteness (Purdy's Beach, *Corporations*, 1905 ed., p. 1039).

Restraint on competition (*Clarke* v. *Central R. R. & B. Co.*, 50 Fed. 338; 1892) and an agreement for secret profits (*Shepaug Voting Trust Cases*, 60 Conn. 553; 1890), have also been advanced as reasons for not upholding a voting trust.

And so indefiniteness of duration was an insuperable objection in *Morel* v. *Hoge* (130 Ga. 625; 1908), the agreement in which, between two groups of stockholders,

gave to one group owning exactly one-half of the stock the right to name indefinitely a majority of the board. The contract was held to be against public policy, and as one of the group in power sold some of the stock, the agreement was thereafter held bad because it was designed indefinitely to deprive the owners of a majority of the stock from controlling the corporation. Indefiniteness, not of duration but of the material terms of the trust, was apparently a sufficient reason, if others had not been advanced, for setting aside the trust in *Warren* v. *Pim* (*supra*).

Perhaps the most elusive objection to the enforceability of voting trusts is that which rests on the theory that such a trust is nothing more than a collective proxy, and revocable as is any proxy. If this theory were correct, the many statutes limiting the effective duration of a proxy would also operate to render totally ineffective a voting trust, for while less than half the states prescribe a limit for the life of a proxy yet that limit varies from seven years to as short a period as thirty days. Those who suggest an analogy between a proxy and a voting trust agreement ignore certain fundamental differences between them. The usual proxy merely establishes a relation of principal and agent terminable by the principal at will either through revocation or through sale of his stock. The voting trust agreement vests in the trustees an interest in the stock which the original owner obviously is unable to nullify by any sale of stock and which he cannot otherwise cancel except through an attempted breach of contract. The holder of a proxy

has no control over the stock itself, while the voting trustees have the possession of the stock as well as the legal title to it. The proxy creates a relation of a temporary character under a restrictive statutory authority; the voting trust is created without the need of statutory license and confers not a revocable authority upon an agent but a qualified title upon a transferee of property.

To permit the disruption of a voting trust on the ground that it constitutes only a revocable power has been readily possible in those instances in which the agreement has been held to constitute a "dry" trust (*e. g.*, *Commonwealth* v. *Roydhouse*, 233 Pa. 234; 1911); and in some cases in which the agreement has been sustained it has, nevertheless, been held that the agreement was revocable to the extent that any depositor might withdraw his stock (*Woodruff* v. *Dubuque and Sioux City R. R. Co.*, 19 Abb. N. C. 437; 1887; *Moses* v. *Scott*, 84 Ala. 608; 1887). In the usual case, however, this theory is not to be deemed properly available for the purpose of overthrowing such a trust.

The "active" feature of the trust may be emphasized, and the element of legal consideration adequately founded, by showing that the trust is for the benefit of others as well as of the depositing stockholders. Thus, in one instance, the company planned to issue $10,000,000 bonds and the trust agreement recited that "to induce bankers to purchase said bonds it is found necessary for the protection of their interests that a majority of the capital stock of the company be de-

posited with the voting trustees for a period of five years; . . ." (Philadelphia Rapid Transit Co.; *cf.* page 16).

And so, if such course be found necessary in order to secure a loan, the stockholders may "vest the management of the corporation in hands satisfactory to the lenders and for a term commensurate with the loan," without violating public policy, as intimated by Justice Swayze in *Warren* v. *Pim* (66 N. J. Eq. 353; 1904).

It has been said that the "only purpose regarded as lawful by the courts is the protection of the security of the lien holders" (36 *Amer. Law Rev.* 222). The absence of this element was not the reason for the condemnation of the trust in any of the cases cited by the writer, and it may well be questioned whether to-day the courts would insist on this narrow doctrine in order to uphold a trust as "active." This detail was, however, adverted to in the litigation over the Philadelphia and Reading trust of 1887, the court stating that the voting trustees represented "not only the shareholders, but also the other creditors" (*Shelmerdine* v. *Welsh*, 7 Rlwy. & Corp. L. J. 87; 1890), and it is obvious that many voting trusts have been created primarily in the interest of security holders. In the early trusts the trustees, to be sure, did little else than vote for directors, and the terms of the trust were correspondingly brief and indeed incomplete; so that in not a few instances the arrangement might well have been held to constitute technically an inactive trust. Reorganization agreements now usually set forth the facts of the situation plainly enough to indicate that the proposed trust is

such as to be an "active" trust, although these details are often inadvertently omitted from the recitals of the trust agreement itself. As a matter of fact the trust is frequently for the benefit of security holders, whether technically so expressed or not, and as well is generally for the benefit of all stockholders; and there should seldom be any difficulty in so framing the agreement as to obviate any objection on the ground that it creates merely a "dry" trust.

Another objection has been at times raised with respect to the insufficiency of consideration underlying the agreement. The mutual promises of the depositors have been held by some not to constitute an effective consideration, while others, probably with more technical accuracy, have held such to be a valid form of consideration. In any event, while this question is one of the general law of contracts and not peculiar to the law of voting trusts, it is quite common to find in a voting trust agreement some consideration, either express or implied, other than the mutual promises of the depositors or their concurrent action in actually transferring their stock.

The legality of voting trusts of stock of corporations organized under general corporation laws may well be questioned if their terms contravene the principles already suggested, although if the attack is based on the more indefinite ground of public policy some security may be gained by including, and having accepted by the authorities, appropriate provisions in the company's certificate of incorporation, as in the cases of the New

York, Lake Erie and Western and the Consumers' Gas Trust (*cf.* pages 60, 61). The example might also be followed of the Distillers Securities Corporation, the charter of which provided: "The holders of all or any part of the shares of the capital stock of the corporation shall have the right from time to time at their discretion to create and form a voting trust." Such a provision might effectively estop any stockholder from opposing a voting trust, unless indeed the trust agreement were voidable on specific grounds other than the mere creation of such a trust. The detail is not without significance, as in *White* v. *Thomas Inflatable Tire Co.* (52 N. J. Eq. 178; 1893), the absence from the certificate of incorporation and by-laws of any reference to the preliminary agreement for a trust was apparently a reason for holding that the terms of the trust were not binding on those who had later without notice of it purchased shares of stock. Likewise, in the case of corporations created by special legislative acts any discussion of legality may well be limited if not altogether avoided. Thus in the instance of the Southern Railway the Act of the Virginia legislature (February 20, 1894) authorizing the organization of a corporation by the purchasers of the mortgaged property of the Richmond and Danville Railroad Company, provided that the stock of the new corporation should have "such preferences, conditions and voting power as shall be provided in said plan of organization. . . ." A subsequent Act of the legislature (January 23, 1900) specifically recognized the existence of the voting trust, mentioned the voting

trustees by name, and authorized certain action by them in connection with a reduction of the company's common stock.

The court, when discussing the public policy of Virginia in the case of *Carnegie Trust Co.* v. *Security Life Ins. Co.* (111 Va. 1; 1910), although it upheld the trust then under discussion, apparently was unaware of the action taken by the Virginia legislature on this subject in connection with the formation of the Southern Railway.

If a voting trust should be so formed as not to include the entire issue of stock, the inference is of course permissible that the trustees will act only for their beneficiaries and that they may, consequently, act not in the interest of other stockholders and so not for the common interest of all. Thus a trust presumably for the benefit of all the stockholders, but from which certain stockholders are excluded, may be subject to criticism. The trust agreement should not be in such terms as to be for the benefit of certain stockholders to the exclusion of others (*Kreissl* v. *Distilling Co.*, 61 N. J. Eq. 5; 1900). Such an objection, that a voting trust of less than the entire outstanding stock may produce results prejudicial to the holders of the minority interest, has been met, voluntarily or otherwise, in the later voting trust agreements by the specific provision that any stockholder might subject his shares to the trust. But it may be observed that fair criticism cannot be directed to the mere existence of a voting trust, so much as to the improper use of powers conferred by it. Often, also, as already sug-

gested, the minority holders not participating in a voting trust are in no worse position than are minorities in corporations all of whose stock is held directly by the stockholders.

The early opposition to voting trusts on the part both of courts and of writers has in fact gradually been modified. In attacking trusts resort has been had to details which were not typical and which were obviously open to criticism, while the frequent creation of such trusts even at the present time indicates at least the rather prevalent belief of the bar in their propriety and also the widespread confidence of business men in their efficacy. The changed point of view was reflected by the court in *Carnegie Trust Co.* v. *Security Life Ins. Co.* (111 Va. 1; 1910), as follows: "In considering the cases, however, and the text writers who have commented upon them, it is impossible not to be impressed with the change of opinion which has taken place with respect to the true nature of such contracts. In the early stages of the development of this idea there was a strong sentiment against them which found expression in the opinions of judges and in the not always temperate language of distinguished commentators upon the law; but experience has demonstrated their usefulness, and the hostility evinced toward them has by degrees diminished."

Decisions adverse to voting trusts have frequently, and naturally, been cited as authorities for broader propositions than they really represent. Thus, *White* v. *Thomas Inflatable Tire Co.* (52 N. J. Eq. 178; 1893)

represented a quite abnormal form of voting trust. Of the authorized capital of 100,000 shares, 83,000 shares were issued and were, except qualifying shares, subjected to the trust agreement. The arrangement was that Thomas, who had turned in 55,000 shares, should have the right to nominate one less than a majority of the board, while the other parties, who turned in 28,000 shares, should have the right to nominate a majority of the board. Subsequently, the plaintiff Bidwell bought from Thomas trust certificates representing 53,000 shares, and yet did not secure the control of the board under the agreement, although the material terms of the agreement did not appear either in the certificate of incorporation or by-laws or stock certificates of the company or in the form of the trust certificates. Thomas claimed that he still retained the right to nominate a minority of the board, but this claim was not upheld, as it was assumed that the trust certificates were negotiable and that the plaintiff had succeeded to the rights of Thomas; and accordingly the trustees were enjoined from voting as directed by Thomas. Furthermore, the company had sold the 17,000 shares in the treasury to the plaintiffs, Bidwell taking 16,995 of these shares, and (the directors at this time being apparently the same as those who had joined in the trust agreement) it was held that the issue of this stock effected an abandonment, by those participating in the issue, of any rights under the trust agreement; and also, this stock having been purchased without notice of the trust, that the purchasers were entitled to assume that all the stock

stood on the same basis and that a majority of the stock was entitled to elect the board of directors. Had those affected been simply the original parties to the agreement the court saw "no difficulty in holding such contract valid and its enforcement proper and practicable. I see nothing in it contrary to public policy." But as soon as the rights of third parties, not affected with notice of the extraordinary agreement, intervened (*cf. Gray* v. *Bloomington & Normal Ry. Co.*, 120 Ill. App. 159; 1905), the legal situation was materially altered, and the court naturally did not, and probably could not, look with favor on an agreement which was directed to conferring on certain stockholders, and perhaps secretly, rights which were to be improperly withheld from other stockholders.

So, cases upholding voting trusts have been cited rather too broadly than the facts have been warranted. Thus, in the case of *Chapman* v. *Bates* (60 N. J. Eq. 17; 1900) the collective proxies and powers of attorney were not really upheld because the instruments constituted a valid voting trust but on the theory that as the defendants had advanced funds for the benefit of the company and otherwise changed their position in reliance on the powers of attorney, it would have been inequitable to set aside the proxies without restoring the defendants to their original position. It is also to be noted that the proxies were all to expire January 1, 1902, and that the plaintiff's proxy was signed July 6, 1899, and thus was within the statute permitting proxies for a period of three years. The proxy was also obviously "in the

nature of a power coupled with an interest," as in *Smith* v. *S. F. & N. P. Ry. Co.* (115 Cal. 584; 1897) and so not subject to revocation at will.

Allusion may be made to a few decisions on collateral points, as the discretionary power of voting trustees (*Haines* v. *Kinderhook & Hudson Ry. Co.*, 33 App. Div., N. Y., 154; 1898); the liability of trust certificates to a transfer tax (*United States Radiator Co.* v. *State*, 151 App. Div., N. Y., 367; 1912; *Bonbright* v. *State*, New York Board of Claims, July 2, 1914; Opinion of Attorney General of New York, re Hudson & Manhattan R. R. Co., March 4, 1913); the liability of trust certificates to tax as evidence of indebtedness (*Commonwealth* v. *Union Traction Co.*, 192 Pa. 507; 1899); the analogy, with respect to the rights of pledgees, of trust certificates to stock certificates (*Union Trust Co. of Rochester* v. *Oberg*, 108 N. E. 809; N. Y., 1915); and the impropriety of asking the bankruptcy court to compel dissenting creditors of a bankrupt corporation to accept voting trust certificates in a new corporation (*In re Northampton Portland Cement Co.*, 185 Fed. 542; 1911).

The cases referred to will serve as a guide to the literature of the subject, and further comment upon them is unnecessary for the present purpose, which is chiefly a statement of the principal questions raised by controversies over voting trusts. To this end a minute discussion of the various details involved in the technical arguments is not necessary and, except for those actually engaged in litigation on the subject, may not be desirable.

Details of procedure in litigation also need not be particularly considered, although it may be noted that trust agreements have been attacked both by holders of trust certificates and by holders of stock certificates; by the former usually on the theory that for some reason their contract is revocable or voidable, and by the latter on the theory that the trust agreement effects an illegal impairment of the rights of non-assenting stockholders. Or the plaintiff, as it has happened, may be the holder both of stock certificates and of trust certificates.

The documents printed in the following pages will serve to illustrate portions of the foregoing discussion, and will also suggest certain details on which extended comment is unnecessary. They are not, however, attached as examples to be followed under other conditions, for the reason that few instruments of such special character can be safely or appropriately adopted in circumstances apparently similar but inherently different.

IV

FORMS RELATING TO VOTING TRUSTS

THE ANTHONY AND SCOVILL COMPANY

AGREEMENT, made the 29th day of November, 1904, between the stockholders of The Anthony & Scovill Company, a corporation organized under the laws of New York, who shall become parties to this agreement by signing the same, hereinafter called the stockholders, of the first part, and Ruel W. Poor and Walter H. Bennett, hereinafter called the trustees, parties of the second part:

Whereas the parties of the first part deem it to their interest to act together concerning the management of the Anthony & Scovill Company, of which they are respectively stockholders, and to that

end unite the voting power held by them as such stockholders, and to place the same in the hands of the trustees, with full power and discretion to sell said stock for the benefit of said company or of its creditors, as hereinafter provided.

Now, Therefore, This Agreement, made in consideration of the premises and of the mutual covenants herein contained and of $1.00 by each of the parties to the other in hand paid, witnesseth:

First.—Each party hereto of the first part holding shares of the capital stock of said Anthony & Scovill Company to the number set opposite his name hereto subscribed respectively, hereby severally agrees to deposit the same and the certificates therefor, with sufficient transfers thereof, with said trustees, which deposit shall continue for the period of five years from the date hereof, or for such shorter period as said trustees shall determine, as hereinafter provided. Upon making such deposit all shares represented by the stock certificates, so deposited, shall be transferred upon the books of the said company to the names of said trustees, or to the name of any appointee or appointees of said trustees, and the said trustees are hereby fully authorized and empowered to cause such transfers to be made, and also to cause any further transfers of such shares to be made which may become necessary through any change of the persons holding the office of trustee, or by reason of any sale of said stock or any part thereof as hereinafter provided. Until the expiration of said period of five years, the trustees shall possess and be entitled to exercise all rights of every name and nature, including the right to vote, in respect to any and all such shares deposited; and also to receive dividends, if any, upon said stock.

Second.—From time to time after this agreement shall have taken effect, the trustees may receive deposits of any additional shares of the capital stock of the said company, upon the terms and conditions hereof.

Third.—Each party hereto of the first part hereby severally agrees that the shares or any part thereof so deposited by him may be sold

and transferred at any time in the discretion of the trustees at such price below the par value or otherwise, as they may determine, and either for cash or other valuable consideration, when, in their judgment, the interest of said company or its creditors will be promoted. The said trustees and their survivor and successors or successor, are hereby expressly authorized and empowered to apply the proceeds of sale of said stock or any part thereof, after deducting all their expenses, to the payment of the debts and obligations of the same company, or such of them as they deem proper, or to the purchase of any claims against said company. And after deducting any indebtedness to said company of the parties depositing said stock from his share of proceeds, if any, the balance, if any, shall be divided among the stockholders who have become parties hereto, in accordance with their respective interests.

Fourth.—In voting the stock and in negotiating any sale of said stock so held by them the trustees will exercise their best judgment from time to time, but it is expressly understood and agreed that neither of the trustees incurs any personal liability for any error of law or judgment or for any matter or thing done or omitted under this agreement.

Fifth.—This agreement may be executed in several counterparts each of which so executed shall be deemed an original, and shall together constitute but one and the same instrument.

In Witness Whereof the several parties hereto have hereunto set their hands and seals the day and year first above written.

CHICAGO GREAT WESTERN RAILROAD COMPANY

This Agreement, made this first day of September, one thousand nine hundred and nine, by and between J. P. Morgan & Co. (hereinafter called "Reorganization Managers"), as Reorganization Managers under a certain Plan and Agreement for the reorganization of the Chicago Great Western Railway Company, dated June 1, 1909,

parties of the first part, and J. Pierpont Morgan, George F. Baker, and Robert Fleming (hereinafter called "Voting Trustees") parties of the second part;

WITNESSETH:

Whereas, Chicago Great Western Rail*road* Company (hereinafter called the "Company"), being the "new company" referred to in, and contemplated to be organized pursuant to, the above mentioned Plan and Agreement for the reorganization of the Chicago Great Western Rail*way* Company, is a corporation organized under the laws of the State of Illinois, having an authorized capital stock of $96,000,000, of which $50,000,000 (consisting of 500,000 shares each of the par value of $100) shall be preferred stock, and $46,000,000 (consisting of 460,000 shares each of the par value of $100) shall be common stock, and has made and executed, or is about to make and execute, a First Mortgage, dated September 1, 1909, to the Standard Trust Company of New York as Trustee, upon its property to secure an issue of First Mortgage Fifty-Year Four Per Cent. Gold Bonds, for an aggregate principal sum not exceeding $75,000,000; and

Whereas, Pursuant to a certain contract dated August 20, 1909, between the Company as party of the first part, and F. W. Stevens and George H. Gardiner as joint tenants, parties of the second part, and the Reorganization Managers as parties of the third part, and for the consideration therein stated, the Company is obliged to issue to the nominees of the Reorganization Managers fully paid non-assessable shares of its capital stock in amounts specified in said contract, and in furtherance of said Plan of Reorganization the Reorganization Managers have directed that the said shares of stock be issued to the Voting Trustees; and

Whereas, Upon the terms of this agreement, the Voting Trustees have received, or are to receive, certificates of such shares, each of the par value of $100, of the capital stock of the Company as follows, viz:

----------shares of Preferred Stock,
----------shares of Common Stock,

which certificates, together with such other certificates of stock in the Company as from time to time hereafter may be delivered to the Voting Trustees hereunder, are to be held and disposed of by the Voting Trustees under and pursuant to the terms of this agreement; all of which certificates of stock are hereinafter generally designated "stock certificates";

Now, Therefore, it is Agreed as Follows:

First.—The Voting Trustees, from time to time, upon request, will cause to be issued in respect of stock certificates of the Company delivered to them as aforesaid, certificates in substantially the following form (hereinafter called "stock trust certificates"):

No. *Shares.*

Chicago Great Western Railroad Company

Preferred / Common } Stock Trust Certificate

This Certifies, that, as hereinafter provided, and on surrender hereof, will be entitled, out of certificates delivered to the undersigned Voting Trustees under the Agreement hereinafter mentioned, to receive a certificate or certificates for shares each of one hundred dollars, of the capital stock of the Chicago Great Western Railroad Company; and, in the meantime, to receive payments equal to the dividends, if any, collected by the Voting Trustees upon a like number of such shares of stock received and held by the Voting Trustees under said agreement. No voting right passes by or under this certificate, or by or under any agreement expressed or implied, it being expressly stipulated that until the actual transfer of such stock certificates to the registered owners hereof, the Voting Trustees shall possess and shall be entitled in their discretion to exercise, in respect of any and all of such stock, the right to vote thereon for every purpose, and to consent to any corporate act of said Company as provided in said agreement; but the Voting Trustees will not vote said stock to authorize the creation of any mortgage upon the property acquired

under the plan of reorganization mentioned in said Agreement, to secure any bonds or indebtedness other than the First Mortgage Fifty-Year Four Per Cent. Gold Bonds of the Company, described in said Agreement, and will not vote to authorize any increase of its preferred capital stock, except in each instance with the consent of the registered holders of stock trust certificates in respect of a majority in amount of the preferred stock of the Company at the time outstanding.

This certificate is issued pursuant and subject to an Agreement lodged with the Voting Trustees, dated September 1, 1909, and executed between J. P. Morgan & Co., as Reorganization Managers, and the undersigned Voting Trustees, defining the rights of the holder hereof, and the duties and liabilities of the Voting Trustees. No stock certificate shall be deliverable hereunder before September 1, 1914, unless as hereinafter stated said Agreement shall have been sooner terminated, in which event such stock certificates shall be deliverable as soon as practicable after such termination. At any time, the said Agreement, in the manner provided herein, may be terminated by a majority of the Voting Trustees in their discretion, and shall be terminated upon the written request of registered holders of stock certificates in respect of a majority of all the preferred stock then held by the Voting Trustees and in respect of common stock to an amount sufficient with such majority of such preferred stock to constitute a majority of all the stock (preferred and common) then held by the Voting Trustees.

This certificate is transferable only on the books of the Voting Trustees or their agents, on surrender thereof, by the registered holder in person or by attorney duly authorized, in accordance with rules established by the Voting Trustees, and, until so transferred, the Voting Trustees may treat the registered holder as the owner of this certificate for all purposes whatsoever.

This certificate is not valid unless duly signed on behalf of the Voting Trustees by their agents, and also registered by

, as Registrar.

In Witness Whereof, the Voting Trustees have caused this certificate to be signed by their duly authorized agents, , this day of , 19

Voting Trustees.

by their agents hereunder,

REGISTERED:

Registrar,

by

Any and all such stock trust certificates deliverable in respect of stock certificates received by the Voting Trustees pursuant to the aforesaid tripartite contract of August 20, 1909, or otherwise caused to be delivered to them by the Reorganization Managers, shall be issued in the name of such person or persons as from time to time may be designated by the Reorganization Managers.

The said stock trust certificates shall be transferable only on the books of the Voting Trustees, to be kept by them or their agents, on surrender thereof, by the registered holder in person or by attorney duly authorized, and in accordance with rules from time to time established for that purpose by the Voting Trustees, and, until so transferred, the Voting Trustees may treat the registered holders as the owners of said stock trust certificates for all purposes whatsoever. The transfer books may be closed by the Voting Trustees at any time prior to the holding of meetings, or the payment of dividends, or for any other purpose.

Second.—This agreement shall terminate in any event on September 1, 1914, without notice by or action of the Voting Trustees; and it shall terminate prior to such date forthwith upon delivery to the Agent of the Voting Trustees subscribing the stock trust certificates, of a written request of such termination, executed and proved in the manner set forth in Article Eighth hereof, by registered holders of stock trust certificates in respect of a majority of all the preferred stock then held by the Voting Trustees and in respect of common stock to an amount sufficient with such majority of such pre-

ferred stock to constitute a majority of all the stock (preferred and common) then held by such Voting Trustees, all stock trust certificates held by or for the benefit of the Company being excluded from the computation. At any time, with the concurrence of the Reorganization Managers, this agreement may be terminated by a majority of the Voting Trustees, in their discretion, after at least sixty days' notice of intention to terminate the same shall have been given, according to the provisions of Article Ninth hereof. On September 1, 1914, or upon the earlier termination of this agreement as above specified, the Voting Trustees, in exchange for, or upon surrender of, any stock trust certificate then outstanding, shall, in accordance with the terms thereof, and out of the stock certificates so received and held by them, deliver stock certificates to the holders of stock trust certificates, and thereupon all liability of the Voting Trustees for delivery of said stock certificates shall terminate; and the Voting Trustees may require the holders of stock trust certificates to exchange their certificates for stock certificates accordingly. In case upon or after the termination of this agreement the Voting Trustees shall deposit with an incorporated bank or trust company in good standing having an office in the city of New York, stock certificates so held by them, properly endorsed for transfer in blank, representing the number of shares of the class of stock of the Company called for by the stock trust certificates outstanding, with authority in writing to such bank or trust company to deliver the said stock certificates in exchange for stock trust certificates when and as surrendered for exchange as herein provided, then all further liability of the Voting Trustees, or of any of them, for the delivery of stock certificates in exchange for stock trust certificates shall cease and determine.

Third.—From time to time hereafter, the Voting Trustees may receive any additional stock certificates of the Company, and, in respect of all such stock certificates so received, will issue and deliver stock trust certificates in form corresponding to those above specified, and entitling the holders to the rights therein and herein provided,

All stock trust certificates to be issued under this agreement shall indicate upon the face thereof, whether they are issued in respect of preferred stock certificates or of common stock certificates, and the holders of stock trust certificates in respect of one class of stock certificates shall have no interest in, or claim upon, stock or stock certificates of the other class, nor upon any stock or stock certificates except of the class and to the amount stated in such stock trust certificates respectively.

In case the Voting Trustees shall receive any stock certificates of the Company issued by way of dividend upon stock certificates held by them under this agreement, the said Voting Trustees shall hold such certificates likewise subject to the terms of this agreement, and shall issue stock trust certificates representing such stock certificates to the respective registered holders of the then outstanding stock trust certificates entitled to such dividend.

Fourth.—Any Voting Trustee may at any time resign by delivering to the other Voting Trustees in writing his resignation to take effect ten days thereafter. In case of the death or resignation or the inability to act of any Voting Trustee, the vacancy occurring in his office shall be filled by the appointment of a successor or successors to be named by the Reorganization Managers. The term Voting Trustees, as used in this agreement and in said stock trust certificates, shall apply to the parties of the second part and their successors at any time hereunder. Each Voting Trustee shall be entitled to compensation from the Company at the rate of $1,000 per annum, beginning from September 1, 1909.

Fifth.—The Voting Trustees may adopt their own rules of procedure. The action of a majority of the Voting Trustees expressed from time to time at a meeting, or by writing with or without a meeting, shall, except as otherwise herein provided, constitute the action of the Voting Trustees and have the same effect as though assented to by all. Any Voting Trustee may vote or may act in person or by proxy, and may be a director or an officer of the Com-

pany, and may vote for himself as such. The Voting Trustees may exercise any power or perform any act hereunder by an agent or attorney appointed in writing.

Sixth.—The Voting Trustees shall have full power from time to time and at any time to cause the stock certificates to be transferred into their own names or into the names of their nominees; but as holders of said stock they assume no liability as stockholders, their interest hereunder being that of trustees merely. In voting the stock represented by the stock certificates, the Voting Trustees will exercise their best judgment from time to time to secure the election of suitable directors of the Company, to the end that its business and affairs shall be properly managed, and in voting and in acting on other matters the Voting Trustees will likewise exercise their best judgment; but they assume no responsibility in respect of such management or in respect of any action taken by them or taken in pursuance of their consent thereto, or in pursuance of their vote so cast, and no Voting Trustee shall incur any responsibility, as stockholder, trustee, or otherwise, by reason of any error of law, or of any matter or thing done or suffered or omitted to be done under this agreement, except for his own individual wilful malfeasance.

During the continuance of the voting trust the Directors of the Company, if and when permitted by law, shall be elected annually, each for the term of one year; but if for any reason it shall not be practicable to elect the directors annually, each for the term of one year, the Voting Trustees, with the concurrence of the Reorganization Managers, shall take such steps as in their judgment may be practicable and best adapted to enable the stockholders of the Company to elect the entire Board of Directors of the Company at the annual stockholders' meeting to be held next after the termination of voting trust, or as soon as may be practicable after the termination of the voting trust.

The Voting Trustees, and their successors, as trustees hereunder, at any and at all times shall be entitled to receive, and from any

and all moneys and stock by them received and held hereunder or in connection herewith may retain, indemnity for and against any and all claims and any and all expenses and liabilities by them incurred in connection with or growing out of this agreement or their bona fide discharge of their duties hereunder.

Seventh.—Until the actual transfer of stock certificates in exchange for stock certificates hereunder, the Voting Trustees possess and shall be entitled in their discretion to exercise, in person or by their nominees, in respect of any and all said stock, the right to vote thereon for every purpose and to consent to any corporate act of said Company, as though absolute owners of said stock, it being expressly stipulated that no voting right passes to others by or under said stock trust certificates, or by or under this agreement, or by or under any agreement, expressed or implied; but the Voting Trustees, however, during the continuance of this agreement, shall not vote said stock to authorize or consent to any mortgage upon the property of the Company acquired under the aforesaid plan of reorganization of the Chicago Great Western Railway Company, to secure any bonds or indebtedness other than the First Mortgage Fifty-Year Four Per Cent. Gold Bonds of the Company described in the preamble to this agreement, and shall not vote to authorize any increase in the amount of the authorized preferred capital stock of the Company, except in each instance with the consent in writing of the registered holders of stock trust certificates calling for a majority in amount of the preferred stock of the Company at the time outstanding.

Eighth.—For the purposes of this agreement, any consent or request in writing by the holders of stock trust certificates may be in any number of concurrent instruments of similar tenor, and may be executed by the certificate holders in person or by agent or attorney appointed by an instrument in writing. Proof of the execution of any such consent, or of a writing appointing any such agent or attorney, or of the holding by any person of stock trust certificates

issued hereunder, shall be sufficient for any purpose of this agreement, and shall be conclusive in favor of the Voting Trustees with regard to any action taken by them under such consent, if made in the following manner, viz.: (a) The fact and the date of the execution by any person of any such consent may be proved by the certificate of any notary public, or other officer, authorized to take, either within or without the State of New York, acknowledgments of deeds to be recorded in any state, certifying that the person signing such consent acknowledged to him the execution thereof; or by the affidavit of a witness to such execution. (b) The amount of stock trust certificates held by any person executing any such consent may be proved by the books of the Voting Trustees.

Ninth.—All notices to be given to the holders of stock trust certificates hereunder shall be given either by mail to the registered holders of stock trust certificates at the addresses furnished by such holders to the Voting Trustees or to the agents of the Voting Trustees, or by publication in two daily papers of general circulation in the City of New York and two daily papers of general circulation in the city of London, twice in each week for two successive weeks; and any call or notice whatsoever, when either mailed or published by the Voting Trustees as herein provided, shall be taken and considered as though personally served on all the holders of said stock trust certificates, and such mailing or publication shall be the only notice required to be given under any provision of this agreement.

Tenth.—The term Company, for the purposes of this agreement, and for all rights thereunder, including the issue and delivery of stock certificates, shall be taken to mean the said corporation organized under the laws of the State of Illinois, or any successor corporation or corporations with or into which the same may be consolidated or merged.

In Witness Whereof, as of the day and year first hereinabove mentioned, the said J. P. Morgan & Co. have signed this instru-

ment, and the Voting Trustees have hereunto set their hands and seals.

J. P. MORGAN & Co.,
As Reorganization Managers, as above stated.

Attest:

J. PIERPONT MORGAN, (L. S.)
GEORGE F. BAKER, (L. S.) } *Voting Trustees.*
ROBERT FLEMING, (L. S.)

EQUITABLE LIFE ASSURANCE SOCIETY

THIS AGREEMENT, made this 31st day of December, 1910, between J. Pierpont Morgan, of the first part, and Morgan J. O'Brien, Lewis Cass Ledyard, George W. Perkins, hereinafter called the trustees, of the second part, witnesseth:

Whereas, an agreement made on the 15th day of June, 1905, wherein five hundred and two (502) shares of the capital stock of the Equitable Life Assurance Society of the United States, a corporation of the State of New York, were transferred to trustees, so as to vest the trustees with a right to vote thereon for the term of five years from the 15th day of June, 1905; and

Whereas, the rights secured to the trustees by said agreement expired on the 15th day of June, 1910, and the party of the first part is desirous of continuing such trust for the period and upon the terms hereinafter mentioned; now this agreement witnesseth:

First.—That the party of the first part hereby transfers to the parties of the second part, as trustees aforesaid, five hundred and two (502) shares of the capital stock of the Equitable Life Assurance Society of the United States, for the purpose of vesting in the trustees the right to vote thereon for the term and upon the terms and conditions stated in this agreement. The existing certificate of stock is to be surrendered and canceled and certificates thereof issued to the trustees, in which certificates it shall appear that the same were issued in pursuance to

this agreement, and that fact shall also be noted in the entry of the trustees as owners of such stock in the proper books of the society.

Second.—The trustees are exclusively authorized to exercise the voting power on the stock held under this agreement for the election of directors of the society, and shall, at every annual election of directors of the society, so vote on said stock that out of every thirteen (13) persons for whom such vote shall be cast seven (7) shall be policyholders of the society, selected in accordance with the wishes of the policyholders of the society, expressed as hereinafter provided, and the remaining six (6) directors shall be selected by the trustees in their uncontrolled discretion, to the end that, of the entire fifty-two (52) directors, twenty-eight (28) shall be policyholders of the society, selected by or on behalf of the policyholders, and twenty-four (24) shall be lawfully eligible persons selected by the trustees in their sole discretion.

The wishes of the policyholders in respect of the directors to be voted for by the trustees shall be expressed in the following manner: In each year, at any time prior to the first day of November, any holder of any policy which shall have been in force for one year or more may send to the trustees, at the Equitable Building, No. 120 Broadway, New York, a written request, designating policyholders of the society to the number of not more than seven-thirteenths of the number of directors to be elected at the next ensuing annual election of directors, for whose election as directors such policyholder desires the trustees to vote at such annual election, or requesting the trustees to exercise their discretion on his behalf in the selection of policyholders to act as such directors.

Third.—In case of vacancies in the board of directors, due to resignation, death, or other cause, the trustees may make recommendations to the directors of the society as to the persons to be elected to fill such vacancies to the end that the purpose of this agreement may be promptly and effectually accomplished.

Fourth.—No vote shall be cast upon said stock for any purpose except

with the unanimous approval of the trustees, but the trustees may empower any one of their number actually to cast their vote.

Fifth.—Any trustee may at any time resign by delivering to the other trustees his resignation in writing. In case of the death or resignation of any trustee, the vacancy shall forthwith be filled by an appointment made in writing by the remaining trustees. The term "trustees" whenever used herein shall include the parties of the second part, and their successors so appointed.

Sixth.—The party of the first part shall be entitled to the dividends on the stock deposited by him under this agreement.

Seventh.—This agreement shall continue in force for five (5) years from the date hereof, subject to be terminated by the party of the first part as hereinafter provided, it being expressly understood and agreed that the party of the first part shall have the right at any time during the term hereinbefore mentioned to revoke this trust by serving upon the parties of the second part therein a notice in writing that he so elects to revoke and terminate the same thirty (30) days after the service of such notice upon the parties of the second part by depositing such notice signed by the party of the first part in the mail addressed to the parties of the second part at the office of the Equitable Life Assurance Society of the United States, No. 120 Broadway, New York City, and this agreement and the trust therein provided for shall at once cease and determine, and all rights of any kind or description thereunder shall cease and be at an end, and the party of the first part shall be entitled to the said stock and to all the rights and powers incidental thereto as if this agreement had not been made.

Eighth.—Every other stockholder of the society may transfer his stock to the trustees, to be held subject to the provisions of this agreement, and thereupon may participate in the terms, conditions and privileges thereof.

In Witness Whereof, the parties hereto have set their hands unto five originals hereof the day and year first above written.

J. Pierpont Morgan,
Morgan J. O'Brien,
Lewis Cass Ledyard,
Geo. W. Perkins.

State of New York, *County of New York, ss:*

On this 17th day of January, 1911, before me personally came J. Pierpont Morgan, Morgan J. O'Brien, Lewis Cass Ledyard, and George W. Perkins, to me known and known to me to be the persons described in and who executed the foregoing trust agreement, and they each acknowledged to me that they executed the same.

[seal.] Livingston Platt,
Notary Public, New York County.

GENERAL MOTORS COMPANY

This Agreement, made in the city of New York, the 1st day of October, 1910, by and between such owners of stock, preferred and common, in General Motors Co. as may become parties to this agreement in the manner hereinafter provided (hereinafter termed stockholders), parties of the first part, and James N. Wallace, Frederick Strauss, James J. Storrow, William C. Durant, and Anthony N. Brady (hereinafter called the voting trustees), parties of the second part, witnesseth as follows:

Whereas the General Motors Co. has been organized under the laws of the State of New Jersey with an authorized capital stock of $60,000,000 divided into 600,000 shares of $100 each, of which stock to the amount of $20,000,000 is preferred stock, and stock to the amount of $40,000,000 is common stock, and of said preferred stock, stock to the amount of $17,835,400 has been issued, and of said common stock, stock to the amount of $20,374,030 has been issued; and

Whereas said General Motors Co. has authorized the issue of its 6 per cent. first lien five year sinking fund gold notes to be dated October 1, 1910, to be payable October 1, 1915, to bear interest at the rate of 6 per cent. per annum, payable semi-annually on the first days of April and October in each year and to be secured by a deed of trust to Central Trust Co. of New York, as trustee; and

Whereas, as additional protection to said notes and to induce the purchase thereof, the stockholders desire, and have agreed, further to secure the payment of said notes by the transfer and delivery to the voting trustees under the terms of this agreement, of the shares held by them of the capital stock of the General Motors Co., the certificate for said shares to be held and disposed of by the voting trustees under and pursuant to the terms and conditions hereof; Now, therefore, in consideration of the premises:

First.—Any owner of fully paid stock of the General Motors Co., preferred or common, may at any time become a party to this agreement by transferring to the voting trustees the stock held by him and delivering to the voting trustees the certificates, expressed to be fully paid, of said stock, duly indorsed in blank or accompanied by proper instruments of assignment and transfer thereof, in blank duly executed, and in either case, properly stamped for transfer and accepting in respect thereof a certificate or certificates issued under this agreement. Such transfer and delivery of stock and acceptance of a certificate issued under this agreement shall have the same force and effect as though such stockholder had in fact subscribed this agreement under seal.

Second.—The voting trustees do agree with the stockholders, and with each and every holder of certificates issued as hereinafter provided, that, from time to time, upon request, they will cause to be issued to the stockholders, or upon their order, in respect of all stock so transferred to the voting trustees and so by them received from the stockholders, certificates in substantially the following form:

(Preferred stock trust certificate.)

THIS IS TO CERTIFY that, as hereinafter provided
will be entitled to receive a certificate or certificates, expressed to be fully paid, for shares of $100 each in the preferred capital stock of the General Motors Co., and in the meantime to receive payments equal to the cash dividends, if any, collected by the undersigned voting trustees upon a like number of such shares standing in their names. Until after the actual delivery of such certificates, the voting trustees shall possess, in respect of any and all such stock, and shall be entitled to exercise all rights of every name and nature, including the right to vote for every purpose and to consent to any corporate act of said General Motors Co.; it being expressly stipulated that no voting right passes by or under this certificate, or by or under any agreement, expressed or implied.

This certificate is issued pursuant to, and is subject to the terms and conditions of, a certain agreement dated the 1st day of October, 1910, by and between owners of stock, preferred or common, in the General Motors Co., and James N. Wallace, Frederick Strauss, James J. Storrow, William C. Durant, and Anthony N. Brady, voting trustees.

No stock certificate shall be due or deliverable hereunder before the 1st day of October, 1915, nor until the expiration of such further period, if any, as shall elapse before the General Motors Co. shall have paid all its 6 per cent. first lien five-year sinking fund gold notes at any time issued under its deed of trust dated as of October 1, 1910, made to Central Trust Co. of New York, trustee. The voting trustees may, however, make earlier delivery at any time in their absolute discretion.

This certificate is transferable only on the books of the voting trustees by the registered holder, either in person or by attorney duly authorized, on surrender hereof; and until so transferred, the voting trustees may treat the registered holder as owner hereof for all purposes whatsoever, except that delivery of stock certificates hereunder shall not be made without the surrender hereof.

This certificate is not valid unless duly signed on behalf of the undersigned voting trustees by Central Trust Co. of New York, their agent, and also registered by the Columbia Trust Co., as registrar.

In Witness Whereof, said voting trustees have caused this certificate to be signed by Central Trust Co. of New York, their duly authorized agent for that purpose, this day of , 19 .

JAMES N. WALLACE,
FREDERICK STRAUSS,
JAMES J. STORROW,
WILLIAM C. DURANT,
ANTHONY N. BRADY,
Voting Trustees.

by ----------

CENTRAL TRUST CO. OF NEW YORK,
Vice President.

Registered this day of , 19 .

THE COLUMBIA TRUST CO.,
Registrar.

by ----------
Vice President.

(Common stock trust certificate.)

This is to certify that, as hereinafter provided will be entitled to receive a certificate or certificates, expressed to be fully paid, for shares of $100 each, in the common capital stock of the General Motors Co., and in the meantime to receive payments equal to the cash dividends, if any, collected by the undersigned voting trustees upon a like number of such shares standing in their names. Until after the actual delivery of such certificates, the voting trustees shall possess, in respect of any and all such stock, and shall be entitled to exercise, all rights of every name and nature, including the right to vote for every purpose and to consent to any corporate act of said General Motors Co.; it being expressly stipulated that no voting right passes by or under this certificate, or by or under any agreement expressed or implied.

This certificate is issued pursuant to, and is subject to the terms and conditions of, a certain agreement dated the 1st day of October,

1910, by and between owners of stock, preferred or common, in the General Motors Co., and James N. Wallace, Frederick Strauss, James J. Storrow, William C. Durant, and Anthony N. Brady, voting trustees.

No stock certificate shall be due or deliverable hereunder before the 1st day of October, 1915, nor until the expiration of such further period, if any, as shall elapse before the General Motors Co. shall have paid all its 6 per cent. first lien five-year sinking fund gold notes at any time issued under its deed of trust dated as of October 1, 1910, made to Central Trust Co. of New York, trustee. The voting trustees may, however, make earlier delivery at any time in their absolute discretion.

This certificate is transferable only on the books of the voting trustees by the registered holder, either in person or by attorney duly authorized, on surrender hereof; and until so transferred, the voting trustees may treat the registered holder as owner hereof for all purposes whatsoever, except that delivery of stock certificates hereunder shall not be made without the surrender hereof.

This certificate is not valid unless duly signed on behalf of the undersigned voting trustees by Central Trust Co. of New York, their agent, and also registered by the Columbia Trust Co. as registrar.

In Witness Whereof, said voting trustees have caused this certificate to be signed by Central Trust Co. of New York, their duly authorized agent for that purpose, this day of , 19 .

JAMES N. WALLACE,
FREDERICK STRAUSS,
JAMES J. STORROW,
WILLIAM C. DURANT,
ANTHONY N. BRADY,
Voting Trustees.

by ----------

CENTRAL TRUST CO. OF NEW YORK,
Vice President.

Registered this day of , 19 .

THE COLUMBIA TRUST CO.,
Registrar.

by ----------

Vice President.

Third.—On the 1st day of October, 1915, if the General Motors Co. shall then have paid all its 6 per cent. first lien five-year sinking fund gold notes at any time issued under its deed of trust dated October 1, 1910, made to Central Trust Co. of New York, or, if not, then as soon as all said notes shall have been so paid, or whenever, earlier, the voting trustees shall decide to make such delivery, the voting trustees in exchange for, and upon surrender of, any stock trust certificate then outstanding, will, in accordance with the terms thereof, and on payment, if the voting trustees shall so require, of a sum sufficient to reimburse them for any stamp tax or other governmental charge in connection with such delivery, deliver, at their office or agency in the borough of Manhattan in the city of New York, certificates of stock of the General Motors Co., and may require the holders of stock trust certificates to exchange them for certificates of capital stock. Whenever, pursuant to the foregoing provisions of this article, certificates of capital stock of the General Motors Co. shall become deliverable, or at any time thereafter, the voting trustees may deposit with Central Trust Co. of New York, or other trust company in good standing having an office in the borough of Manhattan in the city of New York, stock certificates, duly indorsed in blank or accompanied by proper instruments of assignment and transfer in blank, duly executed to a par amount, of each class of stock, equal to the amount of stock called for by the outstanding stock trust certificates for such class of stock, with authority to such depositary to make delivery thereof in exchange for stock trust certificates, and thereupon all further obligation or duty of the voting trustees under this agreement shall terminate.

Fourth.—If, prior to the delivery pursuant to article third of certificates of stock of the General Motors Co. in exchange for stock trust certificates, or the deposit pursuant to article third of stock certificates for the purpose of such delivery, any dividend on the stock of the General Motors Co. of either class, shall be declared and paid or distributed in fully paid stock of said General Motors Co., the respective holders of stock trust certificates calling for

stock of the class on which such stock dividend shall be so declared and paid or distributed, shall be entitled to the delivery of proper stock trust certificates issued under this agreement for stock to the amount received by the voting trustees, as such dividend, upon a like number of such shares standing in the names of the voting trustees. The voting trustees shall not, in any event, be required, in respect of any such dividend in stock, to deliver stock trust certificates calling for a fraction of a share, but may, in lieu thereof, deliver, in respect of fractional interest, scrip in such form as the voting trustees may, in their uncontrolled discretion, determine.

Fifth.—Any voting trustee may at any time resign by delivering to the other voting trustees at the office of the agent of the voting trustees for the transfer of stock trust certificates in writing his resignation, to take effect 10 days thereafter, and in every case of death, resignation, or the inability of any voting trustee to act, the vacancy so occurring shall be filled by the appointment of a successor or successors, to be made by a majority of the other voting trustees by a written instrument. The term voting trustees as used herein and in said stock trust certificates shall apply to the parties of the second part and their successors hereunder. Notwithstanding any change in the voting trustees, the voting trustees for the time being may adopt and issue stock trust certificates in the names of the original voting trustees, the parties hereto of the second part.

Sixth.—The action of a majority of the voting trustees expressed from time to time at a meeting shall, except as otherwise herein stated, constitute the action of the voting trustees and have the same effect as if assented to by all. At any meeting of the voting trustees any voting trustee may vote in person or by proxy to any other voting trustee. The voting trustees may adopt their own rules of procedure. Any voting trustee may act as a director or officer of the General Motors Co., or of any subsidiary or controlled company; and he, or any firm of which he may be a member, or any corporation of which he may be a stockholder, director or officer,

may contract with said General Motors Co. or any subsidiary or controlled company, or be or become pecuniarily interested in any matter or transaction to which said General Motors Co. or any subsidiary or controlled company may be a party, or in which it may in any way be concerned, as fully as though he were not a voting trustee.

Seventh.—In voting the stock held by them (which they may do either in person or by proxy to any one of them or to any other person or persons), the voting trustees will exercise their best judgment from time to time to select suitable directors, to the end that the affairs of the General Motors Co. shall be properly managed, and, in voting and in acting on other matters which may come before them at any stockholders' meeting, will exercise like judgment; but they assume no responsibility in respect to such management or in respect to any action taken by them or in pursuance of their consent thereto as such stockholders, or pursuant to their votes so cast, and no voting trustee incurs any responsibility by reason of any error of law or of any matter or thing done or omitted under this agreement, except for his own wilful malfeasance.

Eighth.—The Voting trustees possess, and shall be entitled, in their discretion to exercise, all rights and powers of absolute owners of said stock including the right to vote for every purpose and to consent to any corporate act of said General Motors Co. The voting trustees will not, however, during the pendency of this agreement, vote in respect of the shares of the capital stock of said General Motors Co. held by them, to authorize any increase in the amount of the preferred stock of said General Motors Co. at present authorized, viz.: $20,000,000, except with the consent, given at a meeting called by the voting trustees for the purpose, of holders of a majority of such part of the trust certificates for each class of stock of said company as shall be represented at such meeting, the holders of each class of trust certificates voting separately and either in person or by proxy; and the voting trustees will not, during the

pendency of this agreement, vote in respect of the shares of the stock of said General Motors Co. held by them, to authorize any increase in the amount of the common stock of said General Motors Co. at present authorized, viz.: $40,000,000, except with the consent, given at a meeting called by the voting trustees for the purpose, of the holders of a majority of such part of the trust certificates for the common stock of said company as shall be represented at such meeting; the holders of such trust certificates voting either in person or by proxy.

Ninth.—All notices to be given to the holders of trust certificates hereunder shall be inserted in two daily papers of general circulation published in the City of New York, and in a daily paper of general circulation published in the City of Boston, Mass., twice in each week for four successive weeks. Any call or notice whatsoever, when so published by the voting trustees, shall be taken and considered as though personally served on all parties hereto, including the holders of said trust certificates, and upon all parties becoming bound hereby as of the respective dates of insertion thereof, and such publication shall be the only notice required to be given under any provision of this agreement.

Tenth.—This agreement may be simultaneously executed in several counterparts, each of which, so executed, shall be deemed to be an original; and such counterparts shall together constitute but one and the same instrument.

In Witness Whereof, the voting trustees, the parties of the second part, have hereunto set their hands and seals in the City of New York the day and year first hereinabove mentioned, and the parties of the first part have transferred and delivered their stock and accepted certificates issued under this agreement.

JAMES N. WALLACE,
FREDERICK STRAUSS,
JAMES J. STORROW,
W. C. DURANT,
ANTHONY N. BRADY,
Voting Trustees.

BALTIMORE AND OHIO RAILROAD COMPANY

Preferred Stock Trust Certificate

THIS IS TO CERTIFY that on the 1st day of March, 1904,

will be entitled to receive a certificate or certificates for fully paid shares of $100 each in the preferred capital stock of the Baltimore & Ohio Railroad Co. and in the meantime to receive payments equal to the dividends, if any, collected by the undersigned Voting Trustees upon a like number of such shares standing in their names; and until after the actual delivery of such certificates the Voting Trustees shall possess and be entitled to exercise all rights of every name and nature, including the right to vote in respect of any and all such stock, it being expressly stipulated that no voting right passes by or under this certificate, or by or under any agreement express or implied.

This certificate is issued under and pursuant to the terms and conditions of a certain agreement dated June 22, 1898, by and between Speyer & Co. and Kuhn, Loeb & Co., of New York, and Speyer Bros., of London, as reorganization managers, and the undersigned Voting Trustees.

No stock certificate shall be due or deliverable hereunder until the 1st day of March, 1904, but the Voting Trustees, in their discretion, may make earlier delivery.

This certificate is transferable only on the books of the Voting Trustees by the registered holder, either in person or by attorney duly authorized, according to the rules established for that purpose by the Voting Trustees, and on surrender hereof, and until so transferred, the Voting Trustees, may treat the registered holder as owner hereof for all purposes whatsoever, except that delivery of stock certificates hereunder shall not be made without the surrender hereof.

This certificate is not valid unless duly signed on behalf of the Voting Trustees by Speyer & Co., as agents, and also registered by the Mercantile Trust Co. of New York, as registrar.

In Witness Whereof, the said Voting Trustees have caused this

certificate to be signed by Speyer & Co., their duly authorized agents, this day of , 189 .

WILLIAM SALOMON,
ABRAHAM WOLFF,
J. KENNEDY TOD,
LOUIS FITZGERALD,
CHARLES H. COSTER,
} *Voting Trustees.*

by their agents hereunder,

Registered this day of , 189 .

THE MERCANTILE TRUST CO.,
Registrar.

by ----------

CALIFORNIA PETROLEUM CORPORATION

No---- ------*Shares.*

Incorporated under the Laws of the State of Virginia
Common Stock Trust Certificate

THIS IS TO CERTIFY that as hereinafter provided, on surrender hereof and upon payment if the Voting Trustees shall so require of a sum sufficient to reimburse them for any stamp tax or other governmental charge in connection with such delivery,

will be entitled to receive a certificate or certificates expressed to be fully paid for shares of the par value of $100 each, in the Common Capital Stock of the California Petroleum Corporation; and, in the meantime, to receive payments equal to the dividends, if any, collected by the undersigned Depositary upon a like number of such shares standing in its name as agent of the Voting Trustees, such dividends, if received by the Depositary in stock of said Corporation, to be payable in trust certificates.

This certificate is issued pursuant to, and is subject to the terms and conditions of, a certain Agreement lodged with the Depositary, dated October 1, 1912, between owners of common stock in California Petroleum Corporation, and the undersigned Voting Trustees and Depositary. No stock certificate shall be due or deliverable

hereunder before October 1, 1917, unless the Voting Trustees, in their unrestricted discretion, shall determine to authorize such delivery prior to said date as in said Agreement provided. Until the actual transfer of such stock certificates to the registered owner hereof, the Voting Trustees, singly or collectively as in said Agreement provided, shall possess and be entitled in their discretion to exercise, in respect of any and all such stock, through the Depositary, all rights of every name and nature including the right to vote thereon for every purpose and to consent to any corporate act of said corporation as provided in said Agreement, it being expressly stipulated that no voting right passes by or under this certificate, or by or under any agreement express or implied.

This certificate is transferable at the office of the Depositary for the time being under said Agreement, on surrender hereof by the registered holder in person or by attorney duly authorized, in accordance with the rules from time to time established by the Voting Trustees, and, until so transferred, the Voting Trustees and the Depositary may treat the registered holder as the owner of this certificate for all purposes whatsoever.

This certificate is not valid unless signed on behalf of the Voting Trustees by the Depositary for the time being under said Agreement as their agent, and also registered by the Registrar for the time being under said Agreement.

In Witness Whereof, the said Voting Trustees have caused this certificate to be signed on their behalf by the Depositary, their duly authorized agent for that purpose, this day of , 19 .

E. L. Doheny,
G. G. Henry,
C. A. Canfield, } *Voting Trustees.*

by their agent,

Columbia-Knickerbocker Trust Company,
Depositary.

by

Registered this ....., 19...

United States Mortgage and Trust Company,
Registrar.

by

THE CINCINNATI, HAMILTON AND DAYTON RAILROAD COMPANY

Trust Certificate

This is to certify that and assigns entitled to shares of one hundred dollars each of the beneficial interest in the capital stock of the Cincinnati, Hamilton and Dayton Railroad Company, certificates of which are issued to Hugh J. Jewett, Casimir L. Werk, and A. S. Winslow, as trustees, under and in pursuance of a certain trust agreement made in the year 1886, between certain stockholders of said company and the said Hugh J. Jewett, Casimir L. Werk and A. S. Winslow, as trustees under said agreement.

The holder of this certificate is entitled to the beneficial rights and interest provided in and by the said trust agreement, including a proportionate share of all dividends declared and paid on the stock of the Cincinnati, Hamilton & Dayton Railroad Company, held in trust as aforesaid.

In Witness Whereof, the said trustees have caused this certificate to be signed by one of said trustees, and countersigned by their secretary, at Cincinnati, this day of A. D. 18 .

INTERNATIONAL HARVESTER COMPANY

No..... .....*Shares.*

Stock Trust Certificate

THIS CERTIFIES, that, as hereinafter provided, will be entitled to receive a certificate or certificates for fully paid shares of one hundred dollars each, of the capital stock of the International Harvester Company, and, in the meantime, to receive payments equal to the dividends, if any, collected by the undersigned Voting Trustees upon a like number of such shares standing in their names; such dividends, if received by the Voting Trustees in stock of said Company, to be payable in stock trust certificates. Until the actual delivery of such stock certificates, the Voting Trustees shall possess, in respect of any and all of such stock, and shall be entitled, in

their discretion, to exercise, all rights and powers of absolute owners of said stock, including the right to vote for every purpose and to consent to any corporate act of said Company; it being expressly stipulated that no voting right passes by or under this certificate, or by or under any agreement expressed or implied.

This certificate is issued pursuant to, and the rights of the holder are subject to, and limited by, the terms and conditions of a certain agreement, dated the thirteenth day of August, 1902, by and between William C. Lane and the undersigned Voting Trustees.

Stock certificates shall be due and deliverable in exchange for stock trust certificates on, but not before, August 1, 1912, unless a majority of the Voting Trustees elect, as they may, to terminate said agreement after August 1, 1907, upon not less than ninety days' notice.

This certificate is transferable only on the books of the Voting Trustees by the registered holder thereof, either in person or by attorney duly authorized according to rules established for that purpose by the Voting Trustees, and on surrender hereof; and, until so transferred, the Voting Trustees may treat the registered holder as owner hereof for all purposes whatsoever, except that they shall not be required to deliver stock certificates hereunder without surrender hereof.

This certificate is not valid unless duly signed on behalf of the undersigned Voting Trustees by , their agents, and also registered by , as Registrar.

In Witness Whereof, the undersigned Voting Trustees have caused this certificate to be signed by their duly authorized agents,

, this day of , one thousand nine hundred and .

Voting Trustees

by ,

Their Agents.

by

President.

Registered this day of , 19 .

Registrar.

by

Secretary.

MOBILE AND OHIO RAILROAD COMPANY

Be it known that entitled to shares of the capital stock of the Mobile & Ohio Railroad Company, One Hundred Dollars per share having been paid on the same, said shares being transferable on the books of the company only by the above named in person or by attorney upon the surrender of this certificate and subject to the power of attorney herein referred to.

It is understood and declared that the ownership by the said and his assigns of the said shares of stock entitles them to all the rights and privileges which pertain to the ownership of the said shares, including the right to such dividends and profits as shall be ascertained and declared upon the capital stock of the said company, saving and excepting that such ownership is subject to a power and authority heretofore granted by the owner of said shares to the Farmers' Loan & Trust Company in trust for the benefit and security of the preferred Income and Sinking Fund Debentures issued by said Railroad Company, by virtue of which power and authority the said Farmers' Loan & Trust Company is and its successors will be entitled, in person or by proxy, to vote upon the said shares of stock at all meetings of the stockholders of the said Company which may be hereafter for any purpose convened during the continuance of said trust, and so to vote in the name of either the present or future holders of said shares, or in the name of the said Farmers' Loan & Trust Company, or its successors or proxies.

In Witness Whereof, the signature of the president and the counter signature of the secretary and the seal of said company are herewith affixed this day of , 18 .

NEW ORLEANS TERMINAL COMPANY

Stock Trust Certificate

No..... .....*Shares.*

This is to certify that is entitled to the

rights, privileges and benefits set forth in a certain voting trust agreement between Southern Railway Company and St. Louis and San Francisco Railroad Company, parties of the first part, and the Standard Trust Company of New York, party of the second part, dated December 31, 1903, in respect of shares of the capital stock of New Orleans Terminal Company; which shares have been transferred to and are now held by the undersigned as Trustee under, pursuant to and as provided in said voting trust agreement.

This certificate is issued in accordance with the provisions of said voting trust agreement and is subject to the provisions, terms and conditions thereof.

The interest in said shares of the capital stock of the New Orleans Terminal Company, evidenced by said voting trust agreement and by this certificate, is transferable only, subject to the conditions, stipulations and contingent forfeiture set forth in said voting trust agreement, upon the books of the undersigned Trustee at its office in the City of New York, by the registered holder of this certificate, in person or by attorney, upon the surrender of this certificate properly endorsed.

In Witness Whereof, The Standard Trust Company of New York has caused these presents to be signed by its President or Vice President, and its corporate seal to be hereto affixed and to be attested by its Secretary, or Assistant Secretary, this day of , A. D. 19 .

THE STANDARD TRUST COMPANY OF NEW YORK,
Trustee.

(L. S.) by ----------
President.

Attest:

Secretary.

PITTSBURGH AND LAKE ERIE RAILROAD COMPANY

SHARES $50. EACH SPECIAL STOCK.

This certificate entitles

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to

---

of the capital stock

The Pittsburgh & Lake Erie R. R. Co. standing in the name of the Trustees, in whom is vested the perpetual power of voting the same, as per agreement of 20th October, 1877; transferable on the special stock book of said company, in person or by attorney, on surrender of this certificate.

In Witness Whereof, the said trustees, by their duly appointed agent, have hereto set their hands and seals, this day of , 18 .

Pittsburgh.

---(L. S.) ---(L. S.)
---(L. S.) ---(L. S.)
---(L. S.) ---(L. S.)

POPE MANUFACTURING COMPANY

No..... .....*Shares.*

Five per cent. Second Preferred Stock (Cumulative after February 1, 1905) Trust Certificate.

The Central Trust Company of New York having received upon deposit and in trust from George F. Crane, F. S. Smithers and Albert A. Pope, voting trustees, certificates representing one hundred thousand (100,000) shares of the second preferred stock of the Pope Manufacturing Company of the par value of one hundred dollars ($100) each, and under the provisions of the agreement dated the

fifteenth day of May, 1903, between William A. Read, Frederic P. Olcott, George F. Crane, Colgate Hoyt and F. S. Smithers, a committee, and George F. Crane, F. S. Smithers and Albert A. Pope, voting trustees, to which agreement the holders hereof assent by accepting this certificate, hereby certifies that
is entitled to an undivided equitable interest in said deposited shares equivalent to shares of said second preferred stock of the Pope Manufacturing Company, without, however, the right to vote upon any of said shares, which right, as well as all other rights appertaining to said shares, except such as in and by said agreement expressly provided are vested exclusively in and are to be exercised by the voting trustees named in said agreement and their successors.

The owner of this certificate will be entitled to receive payments equal to the dividends, if any, collected by the voting trustees upon the like number of shares and paid over to this company.

The powers of the voting trustees with respect to the shares of stock of the Pope Manufacturing Company held in trust, as aforesaid, will continue for the period of five (5) years from the first day of February, 1903, unless sooner terminated by them as provided in the said agreement.

The voting trustees shall not consent that any mortgage be put upon the property of the Pope Manufacturing Company or any part thereof, or that the amount of the first preferred or second preferred stock be increased except with the consent of the holders of three-fourths in amount of first preferred stock trust certificates, or that the amount of second preferred stock be increased except with the consent of the holders of two-thirds in amount of the second preferred stock trust certificates and two-thirds in amount of the common stock trust certificates, to be given in the manner prescribed in and by said agreement.

Upon the termination of the trust upon which the said shares of stock are deposited, the holder hereof will be entitled to receive from this company upon surrender of this certificate shares of the second preferred capital stock of said Pope Manufacturing Company.

The interest in said shares of stock represented by this certificate is assignable only by transfer upon the books kept by this company for that purpose by the holder hereof in person or by proxy upon surrender of this certificate properly assigned.

This certificate is issued pursuant to and is subject to the terms and conditions of said agreement of May 15, 1903, by and between the said committee and the said voting trustees. This certificate is not valid unless duly signed by an officer of this company and also registered by , as registrar.

Dated New York, , 19 .

CENTRAL TRUST COMPANY OF NEW YORK,

by .....*Vice President.*

.....*Secretary.*

Registered this day of , 19 .

.....*Registrar.*

STANDARD OIL TRUST

Shares $100 each.

Number *Shares.*

THIS IS TO CERTIFY that is entitled to shares in the equity to the property held by the trustees of the Standard Oil Trust, transferable only on the books of said trustees on surrender of this certificate. This certificate is issued upon condition that the holder or any transferee thereof shall be subject to all the provisions of the agreement creating said trust and the by-laws adopted in pursuance of said agreement as fully as if he had signed the said trust agreement.

Witness the hands of the president, secretary and treasurer of the board of trustees this day of A. D., 188 , at the city of New York.

----------*President*

----------*Treasurer.*

----------*Secretary.*

INTERBOROUGH-METROPOLITAN COMPANY

AN AGREEMENT, made in the City of New York this sixth day of February, 1911, between all the holders of voting trust certificates and of the preferred stock of Interborough-Metropolitan Company who shall become parties to this agreement by signing the same, parties of the first part, and August Belmont, Edward J. Berwind, Andrew Freedman, Theodore P. Shonts and Cornelius Vanderbilt (hereinafter called the Voting Trustees) parties of the second part.

Whereas, the Interborough-Metropolitan Company (hereinafter called the Company) is a corporation organized under the laws of the State of New York, with a capital stock of $155,000,000, divided into shares of $100 each, of which $55,000,000 is preferred stock and $100,000,000 is common stock, and

Whereas, pursuant to an agreement dated the sixth day of March, 1906, by and between Edward J. Berwind and others, a Committee, and August Belmont and others, as Voting Trustees, the Committee caused to be transferred to the Voting Trustees for the purpose of vesting in the Voting Trustees the right to vote thereon for the term and upon the terms and conditions stated in said agreement, certain shares of the stock of the said Company which said agreement also provided that every other stockholder might transfer his stock in the Company to the Voting Trustees and thereupon participate in the said agreement, and

Whereas, said agreement also provided that

"If, on or before the sixth day of March, 1911, the Voting Trustees shall consider a continuance of the same management and control essential to the welfare of the Company, and shall file a certificate to that effect with the agent of the Voting Trustees, the holders of voting trust certificates issued hereunder agree to use their best efforts to effect a renewal of this agreement for such period, not exceeding five years from said sixth day of March, 1911, as the Voting Trustees may designate; and, in the event of such renewal, certificates of stock in the Company shall be deliverable only at the expiration of the period of such renewal."

And Whereas, The Voting Trustees have filed their certificate therein provided, and have designated for the renewal of the voting trust the period of five years from and after the sixth day of March, 1911, and have requested the holders of voting trust certificates to use their best efforts to effect such renewal,

And Whereas, the parties of the first part deem it to their interest to act together, concerning the management of Interborough-Metropolitan Company of which they are respectively stockholders and holders of said voting trust certificates and to that end to unite the voting power held by them as such stockholders and to place the same in the hands of the voting trustees for the further period of five years as hereinafter provided,

Now Therefore, this agreement made in consideration of the premises, of the mutual covenants herein contained and of one dollar by each of the parties to the others in hand paid, Witnesseth as follows:

First.—Each party hereto of the first part, holding Voting Trust Certificates of Interborough-Metropolitan Company heretofore issued by the Voting Trustees or shares of Preferred Stock, to the number set opposite his, her or its name as hereunto subscribed respectively, hereby severally agrees with the parties of the second part, the said Voting Trustees, that for the period of five years from and after March 6, 1911, the said Voting Trust shall continue in full force and effect and subject to the same terms and conditions as provided in the original agreement creating said Voting Trust, dated March 6, 1911, and during the said period, unless sooner terminated as therein provided, the said Voting Trustees shall retain possession of the certificates for the shares of the stock heretofore issued to the Voting Trustees, and represented by the Voting Trust certificates held by the parties of the first part together with the shares of Preferred Stock delivered by the parties of the first part to the Voting Trustees.

Second.—Every other stockholder may transfer his stock either common or preferred in the Company to the Voting Trustees and thereupon may participate in the terms, conditions and privileges hereof, and the Voting Trustees, in respect of all shares of stock so transferred to them, will issue and deliver certificates similar to those hereinafter mentioned, entitling the holders thereof to the rights therein specified.

Third.—The Voting Trustees agree with each and every holder of voting trust certificates issued as hereinafter provided, that, from time to time, upon request, they will cause to be issued, in respect of stock of the Company received by them, certificates in substantially the following form:

(Form of Common Stock Voting Trust Certificate)

INTERBOROUGH-METROPOLITAN COMPANY

No. *Shares.*

Common Stock Voting Trust Certificate

THIS CERTIFIES, that, on March 6, 1916, will be entitled to receive a certificate or certificates, expressed to be fully paid, for shares of one hundred dollars each, in the common stock of the Interborough-Metropolitan Company, and, in the meantime, to receive payments equal to the dividends, if any, collected by the undersigned Voting Trustees upon a like number of such shares standing in their names. Until the actual delivery of such stock certificates, the Voting Trustees shall possess, in respect of any and all of such stock, and shall be entitled, in their discretion, to exercise, all rights and powers of absolute owners of said stock, including the right to vote for every purpose and to consent to any corporate act of said Company except as expressly limited in the agreement in pursuance of which this certificate is issued; it being expressly stipulated that no voting right passes by or under this certificate, or by or under any agreement expressed or implied.

This certificate is issued pursuant to, and the rights of the holder

are subject to, and limited by, the terms and conditions of a certain agreement dated the sixth day of February, 1911, between certain holders of voting trust certificates and of the preferred stock and the undersigned voting trustees, filed with said Company.

No stock certificate shall be due or deliverable hereunder before the sixth day of March, 1916, but the Voting Trustees may in their uncontrolled discretion make earlier delivery thereof.

This certificate is transferable only on the books of the Voting Trustees by the registered holder hereof, either in person or by attorney duly authorized, according to rules established for that purpose by the Voting Trustees, and on surrender hereof; until so transferred, the Voting Trustees may treat the registered holder as owner hereof for all purposes whatsoever; but they shall not be required to deliver stock certificates hereunder without surrender hereof.

This certificate is not valid unless duly signed on behalf of the undersigned Voting Trustees by August Belmont and Company, their agent, and also registered by Guaranty Trust Company of New York, as Registrar.

In Witness Whereof, the undersigned Voting Trustees have caused this certificate to be signed by August Belmont and Company, their duly authorized agent, this day of , one thousand nine hundred and .

AUGUST BELMONT,
EDWARD J. BERWIND,
ANDREW FREEDMAN,
THEODORE P. SHONTS,
CORNELIUS VANDERBILT,
Voting Trustees.

by_____
Their Agent.

Registered_____
GUARANTY TRUST COMPANY OF NEW YORK,
Registrar.

by_____
Ass't Secretary.

(Form of Preferred Stock Voting Trust Certificate.)

INTERBOROUGH-METROPOLITAN COMPANY

No. *Shares.*

Preferred Stock Voting Trust Certificate

THIS CERTIFIES, that, on March 6, 1916,
will be entitled to receive a certificate or certificates, expressed to be fully paid, for shares of one hundred dollars each, in the preferred stock of the Interborough-Metropolitan Company, and, in the meantime, to receive payments equal to the dividends, if any, collected by the undersigned Voting Trustees upon a like number of such shares standing in their names. Until the actual delivery of such stock certificates, the Voting Trustees shall possess, in respect of any and all of such stock, and shall be entitled, in their discretion, to exercise, all rights and powers of absolute owners of said stock, including the right to vote for every purpose and to consent to any corporate act of said Company except as expressly limited in the agreement in pursuance of which this certificate is issued, it being expressly stipulated that no voting right passes by or under this certificate, or by or under any agreement expressed or implied.

This certificate is issued pursuant to, and the rights of the holder are subject to and limited by, the terms and conditions of a certain agreement dated the sixth day of February, 1911, between certain holders of voting trust certificates and of the preferred stock and the undersigned voting trustees, filed with said Company.

No stock certificate shall be due or deliverable hereunder before the sixth day of March, 1916, but the Voting Trustees may, in their uncontrolled discretion, make earlier delivery thereof.

This certificate is transferable only on the books of the Voting Trustees by the registered holder hereof, either in person or by attorney duly authorized, according to rules established for that purpose by the Voting Trustees, and on surrender hereof; until so transferred, the Voting Trustees may treat the registered holder as owner hereof for all purposes whatsoever, but they shall not be required to deliver stock certificates hereunder without surrender hereof.

This certificate is not valid unless duly signed on behalf of the undersigned Voting Trustees by August Belmont and Company, their agent, and also registered by Guaranty Trust Company of New York, as Registrar.

In Witness Whereof, the undersigned Voting Trustees have caused this certificate to be signed by August Belmont and Company, their duly authorized agent, this day of , one thousand nine hundred and .

AUGUST BELMONT,
EDWARD J. BERWIND,
ANDREW FREEDMAN,
THEODORE P. SHONTS,
CORNELIUS VANDERBILT,
Voting Trustees.

by_____
Their Agent.

Registered_____
GUARANTY TRUST COMPANY OF NEW YORK,
Registrar.

by_____
Ass't Secretary.

Fourth.—On March 6, 1916, or whenever, earlier, the Voting Trustees shall decide in their uncontrolled discretion to make such delivery, the Voting Trustees, in exchange for, and upon surrender of, any voting trust certificate then outstanding will, in accordance with the terms hereof, deliver proper certificates of capital stock of the Company, and may require the holders of voting trust certificates to exchange them for certificates of capital stock of the Company to the amount and of the class called for by the respective voting trust certificates outstanding.

Whenever certificates for stock shall so become deliverable, the Voting Trustees may deposit with Guaranty Trust Company of New York or with any other trust company having an office in the City of New York, certificates, properly endorsed for transfer in blank, of stock in the Company to the amounts of the respective

classes of said stock called for by the voting trust certificates outstanding, with authority in writing to such depositary to deliver the same in exchange for voting trust certificates when and as surrendered for exchange, and thereupon all further liability of the Voting Trustees for the delivery of stock certificates in exchange for voting trust certificates shall cease.

Fifth.—The term Company, for the purpose of this agreement and for all rights hereunder, including the issue and delivery of stock, shall be taken to mean the above named Interborough-Metropolitan Company, or any corporation or corporations successor to it.

Sixth.—Any Voting Trustee may, at any time, resign by delivering his resignation, in writing, to the other Voting Trustees, to take effect ten days thereafter or on its earlier acceptance by the Voting Trustees. Any vacancy among the Voting Trustees caused by the death, resignation or inability to act of Andrew Freedman or Cornelius Vanderbilt, or any successor appointed to either of them, shall be filled by August Belmont and Company, as from time to time constituted. Any vacancy among the Voting Trustees caused by the death, resignation or inability to act of Edward J. Berwind or Theodore P. Shonts, or any successor appointed to either of them, shall be filled by Guaranty Trust Company of New York. Any vacancy among the Voting Trustees caused by the death, resignation or inability to act of August Belmont, or any successor appointed to him, shall be filled as follows: Said August Belmont shall, within thirty days from the date of this agreement, lodge with Guaranty Trust Company of New York an instrument in writing signed by him, designating three persons for that purpose, and any such vacancy shall be filled, in the order of their designation in said instrument, by the persons so designated, or, in the case of the death or refusal to serve of all said persons, or of the death, resignation or inability to act of the last of said persons accepting such trusteeship, or in case of the failure of said August Belmont to make such designation, such vacancy shall be filled by the unanimous vote of

the four remaining Voting Trustees. The term Voting Trustees, as used herein and in said voting trust certificates, shall apply to the parties of the second part and their successors hereunder.

Seventh.—The Voting Trustees may adopt their own rules of procedure. The action of a majority of the Voting Trustees expressed from time to time at a meeting or by writing with or without a meeting, shall, except as otherwise herein stated, constitute the action of the Voting Trustees and have the same effect as though assented to by all. Any Voting Trustee may vote in person or by proxy, and may act as a director or officer of the Company.

Eighth.—In voting the stock held by them, the Voting Trustees will exercise their best judgment from time to time to secure suitable directors, to the end that the affairs of the Company shall be properly managed, and in voting and in acting on other matters which shall come before them as stockholders or at stockholders' meetings, will likewise exercise their best judgment, but they assume no responsibility in respect of such management or in respect of any action taken by them, or taken in pursuance of their consent thereto, as such stockholders, or in pursuance of their vote so cast, and no Voting Trustee shall incur any responsibility by reason of any error of law or of any matter or thing done or suffered or omitted to be done under this agreement, except for his own individual wilful malfeasance.

Ninth.—The Voting Trustees shall possess, and shall be entitled in their discretion to exercise, until the actual delivery of stock certificates in exchange for voting trust certificates, all rights and powers of absolute owners of said stock, including the right to vote for any purpose, and to consent to any corporate act of said Company, it being expressly stipulated that no voting right passes to others by or under the voting trust certificates, or by or under this agreement, or by or under any agreement, express or implied; the Voting Trustees will not, however, during the continuance of this agreement,

vote in respect of the shares of the capital stock of the Company held by them, to authorize any increase or diminution in the amount of either class of stock of the Company, except with the consent in each instance of the holders of two-thirds in amount of the voting trust certificates for common stock present in person or by proxy and voting, at a meeting called by the Voting Trustees for that purpose.

Tenth.—All notices to be given to the holders of voting trust certificates hereunder, shall be given by publication in two daily papers of general circulation in the City of New York twice in each week for two successive weeks; and any call or notice whatsoever, when published by the Voting Trustees as herein provided, shall be taken and considered as though personally served on all parties hereto, including the holders of said voting trust certificates, as of the date of first publication, and such publication shall be the only notice required to be given under any provision of this agreement.

Eleventh.—If, on or before the sixth day of March, 1916, the Voting Trustees shall consider a continuance of the same management and control essential to the welfare of the Company, and shall file a certificate to that effect with the agent of the Voting Trustees, the holders of voting trust certificates issued hereunder agree to use their best efforts to effect a renewal of this agreement for such period, not exceeding five years from said sixth day of March, 1916, as the Voting Trustees may designate; and, in the event of such renewal, certificates of stock in the Company shall be deliverable only at the expiration of the period of such renewal.

Twelfth.—This agreement may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original and such counterparts shall together constitute but one and the same instrument.

In Witness Whereof, the several parties have hereunto set their hands, in the City of New York, the day and year first hereinabove mentioned.

SOUTHERN RAILWAY COMPANY

THIS AGREEMENT, made in the City of New York, this 27th day of August, 1902, by and between

party of the first part; and J. Pierpont Morgan, Charles Lanier and George F. Baker (hereinafter called the "Voting Trustees"), parties of the second part;

WITNESSETH as follows:

Whereas, the party of the first part is the holder of Stock Trust Certificates in respect of fully paid shares of $100 each of the capital stock of the Southern Railway Company (a corporation of Virginia), issued by the Voting Trustees under and pursuant to the terms of a certain agreement dated October 15, 1894, by and between the Voting Trustees, parties thereto of the second part, and C. H. Coster, George Sherman and Anthony J. Thomas, a Committee, parties thereto of the first part; and

Whereas, The party of the first part and other holders of such Stock Trust Certificates desire, and have requested, that in respect of all Stock Trust Certificates stamped as assenting hereto, the said Voting Trustees shall continue, for the extended term hereinafter mentioned, to hold the stock represented by such Stock Trust Certificates, and to vote thereon, and to possess and to exercise all of the rights and powers conferred upon and reserved to the Voting Trustees under the said former agreement; and

Whereas, The Voting Trustees are willing to accede to the said request and desire of the party of the first part, and of all other holders of such Stock Trust Certificates, who, by presenting the same to be stamped as hereinafter provided, shall have indicated their like desire;

NOW, THEREFORE, in consideration of the premises:

First.—The party of the first part and all holders of Stock Trust Certificates issued under the said Agreement of October 15, 1894, which shall be stamped as having assented to and accepted the

terms of this Agreement, hereby do agree and consent that in respect of all stock represented by any Stock Trust Certificate stamped as assenting hereto, the term of said Agreement of October 15, 1894, and the operation thereof, and the rights and powers of the Voting Trustees thereunder, shall continue until October 15, 1907, and thereafter until such day as a majority in amount of the holders of such Stock Trust Certificates stamped as assenting to this Agreement, shall, by vote on the date of any annual election for Directors of the Southern Railway Company, fix as the date for the termination of such Agreement and of the rights and powers of the Voting Trustees thereunder; without prejudice, however, to the continuing right of the Voting Trustees in their discretion to cause to be made earlier delivery of stock certificates in exchange for Stock Trust Certificates by them theretofore issued.

Second.—Article Second of the said Agreement of October 15, 1894, is hereby amended so that the first three lines thereof shall read as follows, to wit:

> *Second.*—Upon such date after October 15, 1907, as a majority in amount of the holders of Stock Trust Certificates assenting to this change, shall have fixed by vote on the date of any annual election for Directors of the Southern Railway Company held after October 15, 1907, or whenever the Voting Trustees shall decide to make delivery,—&c., &c.,

and as so amended in its Second Article, the said Agreement of October 15, 1894, is hereby renewed, ratified, confirmed and extended so far as concerns the parties hereto and any and all holders of Stock Trust Certificates stamped as assenting hereto.

Third.—Every Stock Trust Certificate issued under said Agreement, and which shall be stamped as next hereinafter provided as having assented to this Extension Agreement, shall entitle the holder thereof to all the benefits of this Agreement, and shall subject him

to all the limitations hereof, to the same extent and in the same manner as though he were a party by name to this Agreement and to the said Agreement of October 15, 1894, amended, modified and extended as herein provided.

Such stamping shall be as follows:

"The holder of this Stock Trust Certificate has assented to and accepted, and hereby assents to and accepts, the provisions of a certain Extension Agreement dated August 27, 1902; and expressly agrees that until such date after October 15, 1907, as a majority in amount of the holders of assenting stock trust certificates shall have fixed by vote on the date of any annual election for Directors of the Southern Railway Company held after October 15, 1907, no stock certificate shall be due or deliverable hereunder."

Fourth.—The Voting Trustees have accepted the extension of the term of the Voting Trust as above provided; and upon the consideration and in the manner stated in the said Agreement of October 15, 1894, they will exercise their best judgment in the continued discharge of the powers conferred upon them by this Agreement.

Fifth.—This Agreement may be simultaneously executed in several counterparts, each of which when so executed shall be deemed to have been an original, and such counterparts shall together constitute but one and the same instrument, and the same shall be binding whenever signed by the party of the first part and any two of the said three Voting Trustees.

In Witness Whereof, The parties have hereunto set their hands and seals, the day and year first above mentioned.

INTERBOROUGH-METROPOLITAN COMPANY

To Holders of Interborough-Metropolitan Company Voting Trust Certificates and Preferred Stock:

Pursuant to the terms of the Voting Trust Agreement, the under-

signed, the duly appointed successors of the Voting Trustees named therein, have filed with their agents their certificate for the renewal of the Voting Trust for a further period of five years after March 6th, 1911, and the holders of Voting Trust Certificates are requested to execute an agreement for such renewal containing the same terms and conditions as the original Voting Trust. Counterparts of such agreement may be obtained at the office of August Belmont and Company, 23 Nassau Street, New York City.

Provision is made in the Voting Trust Agreement for the issuance of Preferred Stock Voting Trust Certificates in exchange for shares of the preferred stock of those holders who may desire to avail themselves of the privilege of becoming parties to the Voting Trust Agreement.

For the convenience of holders of Voting Trust Certificates and of Preferred Stock there has been mailed a power of attorney authorizing Solomon R. Guggenheim, Rafael R. Govin, Edwin Hawley, Gerald L. Hoyt and Morton F. Plant to execute the renewal agreement on their behalf, which may be returned to Charles B. Ludlow, Secretary Voting Trustees, 23 Nassau Street, New York.

If the copies of the power of attorney are not received through the mails they may be obtained upon application to the Secretary of the Voting Trustees.

The Trustees will be prepared to deliver temporary Voting Trust Certificates in exchange for outstanding Voting Trust Certificates of the Common Stock on and after Thursday, February 23, 1911, at the office of the Transfer Agents, August Belmont & Co., No. 23 Nassau Street, New York.

Dated February 21, 1911.

AUGUST BELMONT,
EDWARD J. BERWIND,
ANDREW FREEDMAN,
THEODORE P. SHONTS,
CORNELIUS VANDERBILT,
Voting Trustees.

INTERNATIONAL MERCANTILE MARINE COMPANY

NEW YORK, June 3, 1907.

To the Holders of Stock Trust Certificates for Preferred and Common Stock of the International Mercantile Marine Company:

By the agreement dated October 28, 1902, under which the above-mentioned stock trust certificates were issued, it was provided, among other things, that said agreement would terminate on October 1, 1907, and that thereupon the Voting Trustees, in exchange for and upon surrender of any stock trust certificates then outstanding would deliver certificates of stock of the International Mercantile Marine Company.

Holders of large amounts of the preferred and common stock voting trust certificates believing it of great importance to the stockholders that the policy of the present management should be continued until the plans now under way for improving the Company's fleet and permanently establishing its strength are completed, have urgently requested the undersigned to propose an extension of the voting trust for a further period of five years. Although the undersigned have felt that their obligations have been fulfilled, and that they are entitled to be relieved from further responsibility, they have felt it their duty, in view of the urgency of the request, to bring the matter to the attention of the present holders of the stock trust certificates and to provide for an extension of the voting trust if a sufficient number of such holders desire them to do so.

Notice is therefore given that if, prior to September 1, 1907, holders of a sufficient number of the present voting trust certificates shall have signified their desire that the voting trust be extended for the period of five years, or, say until October 1, 1912, the undersigned will consent thereto and will arrange so to extend the agreement of such holders. In that case due notice will be given in order that the present stock trust certificates may be presented for stamping or for exchange into new extended certificates as may be determined.

Holders of stock trust certificates who desire to have the voting trust extended should signify such desire as soon as possible to Messrs.

J. P. Morgan & Co., 23 Wall Street, New York, or to Messrs. J. S. Morgan & Co., 22 Old Broad Street, London, on the enclosed blank, stating the amount of certificates held.

Respectfully,

J. Pierpont Morgan,
J. Bruce Ismay,
W. J. Pirrie,
P. A. B. Widener,
Charles Steele,
} *Voting Trustees.*

Messrs. J. P. Morgan & Co.,
23 Wall Street, New York.

Dear Sirs:

The undersigned holder of Voting Trust Certificates for Stock of the International Mercantile Marine Co., requests that the Voting Trust Agreement dated October 28, 1902, may be extended for five years—i. e., until October 1, 1912, and agrees to present Voting Trust Certificates for _____ shares Preferred / _____ shares Common Stock for stamping or for exchange into new extended certificates as may be determined in accordance with the circular of Voting Trustees dated June 3, 1907.

Dated _____, 1907.

SOUTHERN RAILWAY COMPANY

New York, August 27, 1902.

To the Holders of Stock Trust Certificates for Preferred and Common Stock of the Southern Railway Company:

By the Agreement dated October 15, 1894, under which the above mentioned Stock Certificates were issued, it was provided, among other things, that on the first day of July, 1899, if the Southern Railway Company should then have paid five per cent. cash dividend, in one year, on its Preferred Stock, or, if not, then so soon as such dividend should be so paid, the Voting Trustees, in exchange for and upon surrender of

Stock Trust Certificates then outstanding, would deliver proper certificates for stock of the Southern Railway Company.

On April 15, 1902, the Company paid a semi-annual dividend of two and one-half per cent, upon its Preferred Stock. If the dividend soon to be declared, payable in October, shall be at the same rate, one of the conditions of the said Voting Trust Agreement, limiting the period thereof, will have been fulfilled and under that Agreement, unless it be extended, the holders of both Common and Preferred Stock Trust Certificates will be entitled, after payment of such dividend, to have certificates for stock of the Southern Railway Company delivered to them upon surrender of their respective Stock Trust Certificates therefor. The certificates for actual Preferred and Common Stock of the Company would thus be issued and dealt in in the market, making it possible for the control of the Company to be bought and sold from day to day and rendering its policy and management subject to sudden and surprising change.

Holders of large amounts of Preferred and Common Stock Voting Trust Certificates, recognizing this danger, have requested the undersigned to propose an extension of the Voting Trust Agreement and have suggested that pending an ascertainment of the wishes of the stockholders on the subject, the Board of Directors should postpone until the September meeting their determination as to the amount of the October dividend, for it might well be that while a dividend at a certain rate could be conservatively paid under a continuance of the existing administration, the Board might feel hesitation in declaring so large a dividend if stability in the control and management of the Company should be endangered by the termination of the Voting Trust. Accordingly the Board has postponed fixing the rate of the dividend in order that the stockholders may have an opportunity of indicating their wishes regarding the continuance of the Voting Trust so that the Board may have the entire situation before them in reaching their conclusion as to the rate of dividend to be declared.

The events of the past eighteen months in connection with railroad properties, have revealed the danger to which corporate properties are

exposed, of the control of their stock being bought up in the market by purchasers not identified with the property or permanently interested in its development and improvement. Therefore we do not hesitate to state that, in our opinion, it is decidedly for the interests of the stockholders of the Southern Railway to protect their property by an extension of the Voting Trust until negotiations now pending for the further development and strengthening of its lines shall be settled beyond any risk of being overturned, and until the completion of other negotiations now pending in relation to transportation interests in the Southern States which have an important bearing upon the interests of the Southern Railway Company. It is scarcely necessary for us to state that in bringing this matter to the attention of the stockholders we have no desire to ourselves continue the responsibilities of the last eight years; at the same time we have felt that under the circumstances it was our duty to make this statement, leaving it to the stockholders themselves, however, with full knowledge of all the circumstances, to determine what shall be done.

It is proposed that the said Voting Trust Agreement of October 15, 1894, be extended for a further period of five years, or until October 15, 1907, and thereafter until such date as a majority in amount of the holders of Stock Trust Certificates assenting to such extension shall have fixed by vote on the date of any annual election for Directors of the Company held after October 15, 1907.

The undersigned have accordingly consented to extend said Agreement as above stated, for such of the holders of Stock Trust Certificates as shall desire such extension to be made, and shall present their Stock Trust Certificates to be properly stamped therefor, provided at least a majority of such certificates shall be presented.

Holders of Stock Trust Certificates for both Preferred and Common Stock of the Southern Railway Company desiring to unite in such extension are requested to present their certificates at the office of Messrs. J. P. Morgan & Co., No. 23 Wall Street, New York City, on or before September 15, 1902, to be appropriately stamped as entitled to the benefits thereof.

The extension will become operative as to all certificates which have been stamped as soon as a majority in amount of said Stock Trust Certificates shall assent thereto and present their certificates to be stamped as aforesaid. In case the extension shall not become operative, certificates that have been stamped may be presented so that the stamp may be cancelled or a new certificate issued at the option of the holder. Certificates not stamped will not be entitled to the benefits of the extended Agreement.

For your information, the results accomplished under the existing management may be briefly stated:

On October 15, 1894, the operated mileage of your Company was	4,391.94 miles
On June 30, 1902	6,765.91 "
An increase of	2,373.97 "

During the same period 768.22 miles of second track, spurs and sidings have been added.

The gross earnings for the fiscal year ending June 30, 1895, were	$17,114,791.69
The gross earnings for the fiscal year ending June 30, 1902, were	37,712,249.16
Being an increase of	$20,597,456.47

or over 120 per cent.

The net income above fixed charges for the same period increased from	$ 895,744.81
To	3,600,897.47

being 302 per cent.

During the same period large sums have been expended and charged against Income, for the improvement of the property and equipment in order to increase the operating efficiency without adding correspondingly to the capital account.

On June 30, 1902, there was standing to the credit of Profit and Loss, being the amount of accumulated net income to that date on hand in cash or cash assets.	$6,510,894.88

The physical condition of your Company's property and equipment has been greatly improved and is now in a high state of efficiency.

J. PIERPONT MORGAN,
CHARLES LANIER,
GEO. F. BAKER,
} *Voting Trustees.*

NOTICE: Holders of Voting Trust Certificates for both Preferred and Common Stock of the Southern Railway Company who approve the proposed extension of the Voting Trust, are notified that in accordance with the foregoing circular, their certificates must be presented at the office of Messrs. J. P. Morgan & Co., No. 23 Wall Street, New York, on or before September 15, 1902, to be appropriately stamped as assenting to such extension.

SOUTHERN RAILWAY COMPANY

NEW YORK, October 31, 1902.

To the Holders of Stock Trust Certificates for Preferred and Common Stock of the Southern Railway Company:

Holders of Stock Trust Certificates issued by or in behalf of the Voting Trustees under the Agreement made October 15, 1894, by and between C. H. Coster, George Sherman and Anthony J. Thomas, a Committee under a certain Plan for the Reorganization of the Richmond and West Point Terminal Railway and Warehouse Company and its subordinate companies, parties of the first part, and J. Pierpont Morgan, Charles Lanier and George F. Baker (therein called the "Voting Trustees"), parties of the second part, are hereby notified that upon the payment of the dividend of two and one-half per cent., upon the preferred stock of the Southern Railway Company, payable October 31, 1902, the operation of the said Voting Trust Agreement of October 15, 1894, will cease and determine, except as to, and in respect of, all stock represented by any Stock Trust Certificate issued under said Agreement which shall have been stamped as assenting to the extension thereof under the Extension Agreement of August 27, 1902.

From and after that date, namely, October 31, 1902, no Stock Trust Certificate issued under said agreement of October 15, 1894, and not stamped as extended under the agreement of August 27, 1902, will be transferred or transferable; and, by reason of the termination of said Agreement as above stated, the only right of holders of such non-extended and unstamped certificates will be upon surrender thereof at the office of the Agents for the Voting Trustees, Messrs. J. P. Morgan & Co., No. 23 Wall Street, in the City of New York, to receive a certificate or certificates for fully-paid shares of $100 each in the Capital Stock of the Southern Railway Company, of the class and for the amount specified in such unstamped Stock Trust Certificate; but holders desiring to retain their Stock Trust Certificates may have the certificates stamped as above and will then be entitled to retain the same.

The Extension Agreement of August 27, 1902, having become operative by the stamping thereunder of a majority of said Stock Trust Certificates, the undersigned, acting under the authority conferred upon them by said Extension Agreement, have determined that said Extension Agreement shall terminate on October 15, 1907, and that delivery of stock certificates in exchange for said stamped Stock Trust Certificates shall be made on that date, without prejudice, however, to the right of the Voting Trustees in their discretion to cause delivery to be made at an earlier date.

In view of the fact that a majority of the outstanding Stock Trust Certificates have already been stamped as assenting to the Voting Trust Extension, the Voting Trustees have no hesitation in stating that they believe it is for the best interests of the Company and therefore of the holders of the remaining Stock Trust Certificates that the same be promptly stamped as assenting to the extension of the Voting Trust above mentioned, instead of being surrendered.

However, holders of unstamped Stock Trust Certificates have the option of adopting whichever course they prefer, and are therefore requested to present their Stock Trust Certificates at the office of J. P. Morgan & Co., No. 23 Wall Street, New York, on or after November 1, 1902, either, to be stamped as assenting to the extension of the Voting

Trust above mentioned, or to be surrendered in exchange for Southern Railway Company Stock Certificates, as above set forth.

All unstamped Stock Trust Certificates surrendered for exchange must be properly endorsed in blank by the registered holder thereof.

As stated above, owing to the termination of the original agreement of October 15, 1894, the Voting Trustees have no power to issue new unstamped Stock Trust Certificates and therefore the transfer books for such unstamped Certificates will be finally closed from and after November 1, 1902.

J. Pierpont Morgan,
Charles Lanier,
George F. Baker,
} *Voting Trustees.*

Referring to the foregoing notice, the transfer books for unstamped Stock Trust Certificates having been finally closed, the undersigned, as Agents for the Voting Trustees, are not authorized to make any further transfer of such unstamped Stock Trust Certificates.

Holders of such unstamped Stock Trust Certificates may, however, present the same to be stamped as assenting to the Extension Agreement of August 27, 1902, and they will thereupon be again transferable under the terms of that Agreement. Holders not desiring to unite in such Extension Agreement may surrender their unstamped Stock Trust Certificates and receive in exchange therefor certificates of stock of the Southern Railway Company as stated in said notice. In case the amount of Southern Railway Company stock which may be issued on such exchange is sufficient to warrant an application to list the same on the New York Stock Exchange, such application will be made in due course.

J. P. Morgan & Co.

New York, November 1, 1902.

THE CHESAPEAKE AND OHIO RAILWAY COMPANY

To the Holders of Trust Certificates issued by the undersigned for Stock of The Chesapeake & Ohio Railway Co.:

The period of the "Voting Trust" will expire on the 31st instant.

After that date we shall be prepared to deliver stock certificates in exchange for the present trust certificates, on surrender of the latter at the office of Messrs. Drexel, Morgan & Co., 23 Wall Street, New York. Certificates must be assigned to the "Trustees for exchange for stock."

J. Pierpont Morgan,
John Crosby Brown,
George Bliss,
} *Trustees.*

CHICAGO GREAT WESTERN RAILROAD COMPANY

To the Holders of Stock Trust Certificates issued in respect of Preferred and Common Stock of the Chicago Great Western Railroad Company, pursuant to the Voting Trust Agreement dated September 1, 1909:

You are hereby notified that the above mentioned Voting Trust Agreement, by the terms thereof, will terminate on September 1, 1914, and that on or after that date said Stock Trust Certificates may be exchanged for corresponding Certificates of Stock of said Railroad Company. Exchanges will be made in the City of New York, at the temporary offices at No. 21 Broad Street of J. P. Morgan & Co., who will act as Agents for the Voting Trustees in effecting such exchange. Not more than one hundred schedules per diem will be received. Pending the preparation of the proper Stock Certificates, suitable receipts will be issued for the Stock Trust Certificates surrendered.

George F. Baker,
Robert Fleming,
Surviving Voting Trustees.

New York, August 1, 1914.

New York, August 1, 1914.

To the Holders of Stock Trust Certificates issued in Respect of Preferred and Common Stock of the Chicago Great Western Rail-

road Company, pursuant to the Voting Trust Agreement dated September 1, 1909, which by its terms expires September 1, 1914:

On and after September 1, 1914 at our temporary office, No. 21 Broad Street, New York, we will receive the above mentioned Stock Trust Certificates, and on that date we shall be prepared to begin the delivery of Stock Certificates of the Chicago Great Western Railroad Company, in exchange for said Stock Trust Certificates duly surrendered for exchange. Pending the preparation of the Stock Certificates, suitable temporary receipts will be issued.

Not more than one hundred schedules per diem will be received.

Holders transmitting Stock Trust Certificates by mail will please indicate whether they wish the Stock Certificates sent by registered mail or by express at their expense.

J. P. Morgan & Co.,
Agent for Voting Trustees.

INTERNATIONAL HARVESTER COMPANY

Notice of Expiration of Voting Trust

Notice is hereby given that the Voting Trust Agreement, dated August 13, 1902, covering common and preferred stock of International Harvester Company will expire on August 1, 1912. On and after that date First Trust and Savings Bank of Chicago will deliver certificates representing common and preferred stock, as the case may be, in exchange for, and upon surrender of, stock trust certificates duly endorsed for transfer in blank or accompanied by proper instruments of transfer in blank.

The Standard Trust Company of New York City has consented to act without charge as agents for the depositors and will receive on and after August 1, 1912, deposits of stock trust certificates and effect exchanges for account of the depositors through First Trust and Savings Bank.

Holders of Stock Trust Certificates are requested to present their

certificates for exchange to First Trust and Savings Bank of Chicago as soon after August 1, 1912, as possible.

Both the preferred and common stocks of International Harvester Company have been listed on the New York Stock Exchange, the listing to become effective on and after August 1, 1912.

No transfers of stock trust certificates will be made after July 31, 1912.

GEORGE W. PERKINS
CHARLES DEERING,
CYRUS H. MCCORMICK,
Voting Trustees.

July 20, 1912.

KANSAS CITY SOUTHERN RAILWAY COMPANY

To the Holders of Trust Certificates Issued by the Voting Trustees under the Voting Trust Agreement, dated Feb. 28, 1900, between William F. Harrity and others and John W. Gates and others for stock of the Kansas City Southern Railway Company.

Notice is hereby given that the Voting Trust Agreement entered into the 28th day of February, 1900, by and between William F. Harrity, August Heckscher, Hermann Sielcken, William Edenborn, Max Pam, Samuel R. Shipley, Silas W. Pettit and Winthrop Smith, as a Reorganization Committee under a plan and agreement for the Reorganization of the Kansas City, Pittsburg & Gulf Railroad Company and its terminal Companies, party of the first part, and John W. Gates, James Stillman, John Lambert, Louis Fitzgerald, Hermann Sielcken, William Edenborn, and Samuel R. Shipley, parties of the second part, will expire by its own terms on the 2nd day of April, 1905, and that the undersigned, who are now the Voting Trustees appointed and acting pursuant to the provisions of said Voting Trust Agreement, will, beginning on the third day of April, 1905, in accordance with the terms of said Voting Trust Agreement and in exchange for and upon surrender of any stock trust certificates duly issued by or for the Voting Trustees in accordance with the provisions of said Voting Trust Agreement and then outstand-

ing, make delivery of corresponding certificates for the capital stock of the Kansas City Southern Railway Company of the class specified in said stock trust certificates respectively.

All holders of stock trust certificates issued under said Voting Trust Agreement and then outstanding are hereby required to exchange the same for certificates for the capital stock of the Kansas City Southern Railway Company in accordance with their terms beginning on the 3rd day of April, 1905, but only one hundred schedules per diem will be received.

Such Stock Trust Certificates must be presented for effecting such exchange to the Mercantile Trust Company, the Agent of the Voting Trustees for the issuance of such certificates, at its office, No. 120 Broadway, in the City, County and State of New York.

All stock trust certificates surrendered for exchange must be properly assigned in blank or to the undersigned Voting Trustees.

In Witness Whereof, we have hereunto subscribed our names this 16th day of March, 1905.

EDWARD H. HARRIMAN,
OTTO H. KAHN,
LOUIS FITZGERALD,
JAMES STILLMAN,
JOHN W. GATES,
GEORGE J. GOULD,
HERMANN SIELCKEN.

THE METROPOLITAN WEST SIDE ELEVATED RAILWAY COMPANY

1001 Royal Insurance Building, CHICAGO, ILL.

Notice is hereby given to all owners and holders of Voting Trust Certificates of the Central Trust Company of New York, representing an undivided interest in 74,987 shares of the Common Capital Stock of The Metropolitan West Side Elevated Railway Company, that the Voting Trust Agreement, under which the said Voting Trust Certificates were issued, will expire by limitation on February 1st,

1904. On and after that date Certificates of The Metropolitan West Side Elevated Railway Company will be issued to the holders of said Voting Trust Certificates upon their assignment and surrender to the Central Trust Company, 54 Wall Street, New York City. Holders so surrendering Voting Trust Certificates will please give their addresses in full and designate whether they wish New York or Chicago Certificates.

GEORGE HIGGINSON, Jr.,
Secretary.

January 25th, 1904.

TOLEDO, ST. LOUIS AND WESTERN RAILROAD COMPANY

The agreement bearing date August 1, 1900, between the Reorganization Committee of the Toledo, St. Louis and Kansas City Railroad Company and the undersigned as Voting Trustees provided that the preferred and common stock certificates of the Toledo, St. Louis and Western Railroad Company held thereunder should be distributed on July 1, 1905. Accordingly, notice is hereby given that upon surrender to the Central Trust Company of New York at its office, 54 Wall Street, New York City, on or after July 1, 1905, in negotiable form, of its outstanding trust certificates representing said preferred and common stock, said Trust Company will be prepared to deliver the certificates for preferred and common stock of the Toledo, St. Louis and Western Railroad Company to which the holders of said trust certificates are respectively entitled.

Dated, New York, May 2, 1905.

F. P. OLCOTT,
THOS. H. HUBBARD,
WM. A. READ,
Voting Trustees.

Referring to the foregoing, notice is hereby given that an application will be made to list upon the New York Stock Exchange the certificates representing the preferred and common stock of this

company so that the same may be there dealt in as soon as may be after June 30, 1905.

TOLEDO, ST. LOUIS AND WESTERN RAILROAD CO.,
by THOS. H. HUBBARD,
Vice-President.

ERIE RAILROAD COMPANY

New York, February 20, 1904.

To the Holders of Stock Trust Certificates for First Preferred Stock, Second Preferred Stock and Common Stock of the Erie Railroad Company:

By the agreement dated January 1, 1896, under which the above-mentioned Stock Trust Certificates were issued, it was provided, among other things, that on the first day of December, 1900, if the Erie Railroad Company should then have paid four per cent. cash dividend in one year on its First Preferred Stock, and if not, then so soon as such dividend should be paid, the Voting Trustees, in exchange for, and upon surrender of Stock Trust Certificates then outstanding, would deliver proper certificates of stock of the Erie Railroad Company.

On January 19, 1904, the Board of Directors declared a semi-annual dividend of two per cent. upon the First Preferred Stock, payable February 29, 1904. The payment of this dividend, being the second dividend of two per cent. paid during the year, fulfills the condition limiting the period of the Voting Trust as above set forth, and it therefore becomes the duty of the Voting Trustees to arrange for the delivery of stock of the Erie Railroad Company in exchange for the Stock Trust Certificates now outstanding.

In view of the present situation the holders of important interests in the property have strongly urged us to arrange for an extension of the Voting Trust for a further period of five years, during which

it is hoped that most of the important developments of the property which are now in contemplation can be completed.

Inasmuch as the earnings of the property have now reached a point where the dividend, upon which the continuation of the Voting Trust was limited, could be safely paid, we have felt that our obligation had been fulfilled and that we were entitled to be relieved from further responsibility. Considering, however, the urgency of the request, we have deemed it our duty to bring the matter to the attention of the present holders of the Stock Trust Certificates.

We therefore give notice that on and after the first day of May, 1904, the Voting Trust terminates and we shall cease to transfer the present Voting Trust Certificates.

We also give notice that, if before that date, holders of a sufficient amount of the present Voting Trust Certificates shall have signified their desire that the Voting Trust be extended for the period of five years, say until May 1, 1909, we will consent to such extension, and will arrange so to extend the agreement for such holders. Due notice will be given in order that the present Stock Trust Certificates may be presented for stamping or for exchange into new extended certificates, as may be determined.

Holders of Stock Trust Certificates who desire to have the Voting Trust extended should signify such desire to J. P. Morgan & Co., 23 Wall St., New York, at once, stating numbers and amounts of certificates held.

Holders not desiring to unite in extending the Voting Trust will upon surrender of their Voting Trust Certificates be entitled to receive in exchange certificates for stock of the Erie Railroad Company, as soon as the same are prepared, of which due notice will be given.

J. Pierpont Morgan,
Louis Fitzgerald,
C. Tennant,
Voting Trustees.

READING COMPANY

New York, October 31st, 1904.

To the Holders of Voting Trustees' Certificates for First Preferred Stock, Second Preferred Stock and Common Stock of Reading Company:

By the agreement dated February 1, 1897, under which the above-mentioned Voting Trustees' Certificates were issued, it was provided, among other things, that:

"On the first day of January, 1902, if then the Reading Company for two consecutive years shall have paid four per cent. per annum cash dividend on its First Preferred Stock, and, if not, then so soon as such dividend shall be paid, and upon surrender of any stock trust certificate then outstanding, the Voting Trustees will, in accordance with the terms thereof deliver therefor corresponding proper certificates of stock of the Reading Company."

On June 15, 1904, the Board of Directors of Reading Company declared a dividend of two per cent. upon the First Preferred Stock, payable September 9, 1904. The payment of this dividend, being the second dividend of two per cent. paid during the year 1904, two dividends of two per cent. each having previously been paid during the year 1903, fulfills the condition limiting the period of the Voting Trust as above set forth, and it, therefore, becomes the duty of the Voting Trustees to arrange for the delivery of stock of Reading Company in exchange for the Voting Trustees' Certificates now outstanding.

We give notice that, on and after December 1, 1904, we shall cease to issue Voting Trustees' Certificates, and we have arranged for the delivery of stock of Reading Company in exchange for such certificates which may then be outstanding.

On and after December 1, 1904, holders of the present Voting Trustees' certificates bearing the registration of the Central Trust Company of New York are requested to present their certificates at the office of Messrs. J. P. Morgan & Company, Transfer Agents of the Voting Trustees in New York, and certificates bearing the regis-

tration of the Pennsylvania Company for Insurance on Lives and Granting Annuities, Philadelphia, to Messrs. Drexel & Company, Transfer Agents of the Voting Trustees in Philadelphia, who will be prepared to deliver certificates of stock of Reading Company in exchange for the same.

One hundred schedules per diem will be received at each Transfer Office.

No transfers of Voting Trustees' Certificates will be made after November 30th, 1904. All certificates surrendered must be properly endorsed in blank by the registered holder thereof.

Holders transmitting certificates by mail will please indicate the name in which Stock Certificates are to be issued, and whether they wish such certificates sent by registered mail or by express at their expense.

In surrendering their Trust to the stockholders, the Voting Trustees desire to call attention to the results obtained during their administration thereof;

For the fiscal year ended June 30, 1897, the total gross receipts of the three Companies were	$45,557,889.77
For the fiscal year ended June 30, 1904, the total gross receipts of the three Companies were	77,040,255.27
Making an increase of	$31,482,365.50
equivalent to sixty-nine per cent.	

For the fiscal year ended June 30, 1897, there was a deficiency in net earnings of the three Companies of	$579,134.38
For the fiscal year ended June 30, 1904, the net earnings of the three Companies were	7,757,538.07
Making an increase of	$8,336,672.45
On the 1st of December, 1896, the annual fixed charges and taxes of the Reading System were	$10,350,046.00
On the 30th of June, 1904, the annual fixed charges and taxes of the Reading System were	10,863,094.00
Showing an increase of	$513,048.00

which includes interest upon all obligations issued since the reorganization, on the improvement and betterment of the property; $166,412 rental of the Wilmington and Northern Railroad and the Reading Belt Railroad, and $920,000 interest upon the bonds issued in 1901 to pay for the majority of the capital stock of the Central Railroad Company of New Jersey. The increase in taxes, which is included in the fixed charges, amounts to $506,169.

If the fixed charges created since December 1, 1896, on account of the acquisition of additional properties, and interest upon the additional General Mortgage bonds issued for the purchase of equipment, are eliminated, the fixed charges of the Reading System were $1,018,065 less for the fiscal year ended June 30, 1904, than they were for the fiscal year ended November 30, 1896.

The Railway Company has expended, for improvements and betterments during this period -----	$8,582,421.00
These expenditures have increased the track mileage 230.33 miles, whilst the total increase of track mileage during this year was 369.61 miles.	
The value of the rolling equipment has increased from ----------	16,990,856.19
as of December 1, 1896.	
To---------- ----------	31,027,728.00
as of June 30, 1904.	
The floating equipment has increased, during the same period, from ----------	1,439,850.00
To ----------	3,224,108.16
The Railway Company has accumulated an insurance capital fund of ----------	1,000,000.00
invested in interest-bearing securities.	
General Mortgage Bonds have been purchased and canceled for the sinking fund, amounting to ---	2,016,000.00
There has been paid, on account of an old unadjusted claim of the city for damages at Columbia Avenue and other points in Philadelphia -----	560,648.41

And there has been set aside to provide for the maturing obligations issued by the City of Philadelphia to pay for construction of the Pennsylvania Avenue subway	494,063.86
The Philadelphia and Reading Coal and Iron Company has spent for new work at collieries.	5,870,505.00
And has also paid off its Coal Trust Certificates, amounting to	3,600,000.00

The Reading Iron Company has, out of its earnings rebuilt its entire plant, and it has also acquired a large interest in the Philadelphia Steel Company; and it is now one of the best-equipped and most successful industrial companies in the country.

In additional to this general favorable statement of financial management, the stockholders are to be particularly congratulated on the acquisition of the control of the Central Railroad of New Jersey. In 1901 a majority of the capital stock of that Company was purchased. The dividends received from the Central Railroad of New Jersey on the stock purchased have exceeded the annual charge to Reading Company accruing on this transaction, so that the purchase has been profitable in itself; but of far more importance is the general advantage of Reading Company arising from the acquisition of this stock, an advantage which cannot be overestimated. It was essential to the future welfare of the Reading Company that it secure and control this only available outlet to the port of New York.

J. Pierpont Morgan,
Frederic P. Olcott,
C. S. W. Packard,
Voting Trustees.

ST. LOUIS AND SAN FRANCISCO RAILROAD COMPANY

To Holders of Trust Certificates for First Preferred Stock, Second Preferred Stock and Common Stock of the St. Louis & San Francisco

Railroad Company issued under the Voting Trust Agreement dated the 1st day of July, 1896, between Louis Fitzgerald, J. Kennedy Tod, Isaac N. Seligman, Siegmund Alsberg, James A. Blair, Benjamin P. Cheney, Samuel C. Eastman and Charles S. Gleed, a Committee under a certain Plan and Agreement for the reorganization of the St. Louis & San Francisco Railway Co., dated the 1st day of April, 1896, parties of the first part, and John A. Stewart, Louis Fitzgerald, J. Kennedy Tod, Isaac N. Seligman, Samuel C. Eastman, Benjamin P. Cheney and James A. Blair, Voting Trustees, parties of the second part:

Notice is hereby given that, on the 1st day of July, 1901, the St. Louis & San Francisco Railroad Co., having then paid for two consecutive years a four per cent. cash dividend on its preferred stock, the undersigned Voting Trustees will, in accordance with the terms of said Voting Trust Agreement, in exchange for and upon surrender of any stock trust certificates, then outstanding, make delivery of proper certificates for the capital stock of the St. Louis & San Francisco Railroad Co.

All holders of Stock Trust Certificates, issued under said Voting Trust Agreement, are hereby required to exchange them for certificates of capital stock on said 1st day of July, 1901.

Stock trust certificates must be presented for exchange to Continental Trust Company of the City of New York, the agent of the Voting Trustees for such purpose, at its office, No. 30 Broad Street, in the City of New York.

Dated, New York, June 18, 1901.

JOHN A. STEWART,
LOUIS FITZGERALD,
J. KENNEDY TOD,
ISAAC N. SELIGMAN,
SAMUEL C. EASTMAN,
BENJAMIN P. CHENEY,
JAMES A. BLAIR,
Voting Trustees.

NEW YORK, June 18, 1901.

Referring to the foregoing notice the exchange of stock trust certificates for stock certificates may be made at any time after the 30th

day of June, 1901, but not more than one hundred schedules per diem will be received by the undersigned.

All stock trust certificates surrendered for exchange must be properly endorsed in blank by the registered holder thereof. If stock certificates are desired in any name other than that appearing on the face of the surrendered trust certificate, the endorsement by the registered holder must be acknowledged before a Notary Public, or be attested by some person or firm satisfactory to the undersigned.

Holders transmitting trust certificates by mail or express will please indicate whether they desire the certificates of stock to be sent by mail or by express at their expense.

In exchange for all stock trust certificates so surrendered there will be delivered receipts entitling the party therein named to receive stock certificates of the character and amount specified therein as soon as they can be prepared for delivery.

CONTINENTAL TRUST CO. OF THE CITY OF NEW YORK,
by WILLARD V. KING,
Secretary.

THE BALTIMORE AND OHIO RAILROAD COMPANY

Dissolution of Voting Trust

Notice of Call of Stock Trust Certificates for Exchange for Stock Certificates

To the Holders of Stock Trust Certificates for the Preferred and Common Stock of the Baltimore & Ohio Railroad Company:

Holders of stock trust certificates issued by or on behalf of the Voting Trustees under the voting trust agreement, dated June 22, 1898, entered into pursuant to the plan and agreement of the same date for the reorganization of the Baltimore & Ohio Railroad Company, are hereby notified that in the exercise of the power conferred by said voting trust agreement, the undersigned Voting Trustees call upon all holders of

stock trust certificates issued under said voting trust agreement to exchange the same for certificates of capital stock on or after September 12, 1901.

Stock trust certificates properly endorsed in blank by the registered holder thereof must be presented for exchange on or after said date to The Standard Trust Company of New York, the agent of the Voting Trustees, at its office, No. 25 Broad Street, in the City of New York, which will issue in the first instance vouchers entitling the holder therein named to receive stock certificates for the amount therein specified of preferred or common stock, as the case may be, as soon as the same can be prepared for delivery.

Messrs. Speyer Brothers, No. 7 Lothbury, London, will receive stock trust certificates in London for exchange, issuing therefor their own receipts, exchangeable at their office for stock certificates as soon as received.

Dated New York, August 6, 1901.

WILLIAM SALOMON,
OTTO H. KAHN,
MARTIN ERDMANN,
LOUIS FITZGERALD,
CHARLES STEELE,
Voting Trustees.

BANKERS TRUST COMPANY

To the Holders of Voting Trust Certificates of shares of capital stock of Bankers Trust Company, issued pursuant to Voting Trust Agreement, dated March 9, 1912:

The undersigned Voting Trustees have filed with the Bankers Trust Company in accordance with the provisions of said agreement a declaration to the effect that said agreement shall terminate on October 27, 1913, and a copy of such declaration is as follows:

"To the Holders of Voting Trust Certificates of shares of stock of Bankers Trust Company, issued pursuant to Voting Trust Agreement, dated March 9th, 1912:

"The undersigned Voting Trustees under the above-mentioned

agreement do hereby exercise their discretion in terminating said agreement, and do hereby declare that said agreement shall terminate and come to an end in accordance with its provisions on October 27th, 1913.
Dated, New York, October 17th, 1913.

Yours very truly,
HENRY P. DAVISON,
GEORGE B. CASE,
DANIEL G. REID,
Voting Trustees."

In accordance with the provisions of said agreement, holders of Voting Trust Certificates are hereby required to deposit as soon as possible with Bankers Trust Company, No. 16 Wall Street, New York City, their Voting Trust Certificates duly endorsed in blank or accompanied by proper blank transfer or powers of attorney. On and after October 27th, 1913, Bankers Trust Company will be authorized to exchange such Voting Trust Certificates for temporary certificates of stock representing a like number of shares called for by the Voting Trust Certificates thus deposited. Such temporary certificates of stock will be exchangeable for permanent engraved certificates on and after January 15, 1914.

Under the provisions of the New York Law, a stock transfer tax of two cents (2c) for each share of stock thus transferred must be paid, and in order to complete such transfer and exchange, holders of Voting Trust Certificates are required to pay in with their certificates the amount of such tax.

Enclosed is a written form of instruction to the Bankers Trust Company, which should be signed and deposited with the Trust Company at the time of making such exchange.

On and after October 27th, 1913, no further transfers of Voting Trust Certificates will be made.
Dated, New York, October 17th, 1913.

Yours very truly,
HENRY P. DAVISON,
GEORGE B. CASE,
DANIEL G. REID,
Voting Trustees.

THE COLORADO AND SOUTHERN RAILWAY COMPANY

To Holders of Trust Certificates for First Preferred Stock and Common Stock of the Colorado and Southern Railway Company, issued under the Voting Trust Agreement dated the 31st day of December, 1898, between Grenville M. Dodge, J. Kennedy Tod, Henry Budge, Oliver Ames, Harry Walters, Norman B. Ream, Henry Levis and Uriah Herrmann, a Committee under a certain plan and agreement for the reorganization of the Union Pacific, Denver and Gulf Railway Company, dated September 29th, 1898, parties of the first part, and Grenville M. Dodge, Frederic P. Olcott, Harry Walters, Henry Budge, and J. Kennedy Tod, Voting Trustees, parties of the second part:

Notice is hereby given that the undersigned, Voting Trustees, have in their discretion decided to terminate said Voting Trust Agreement on the first day of April, 1905, and that on said first day of April, 1905, they will, in accordance with the terms of said Voting Trust Agreement and in exchange for and upon surrender of any stock trust certificates then outstanding, make delivery of proper certificates for the capital stock of the Colorado and Southern Railway Company.

All holders of stock trust certificates issued under said Voting Trust Agreement are hereby required to exchange them for certificates of capital stock on said first day of April, 1905.

The stock trust certificates must be presented for exchange to Messrs. Hallgarten & Co., the agents of the Voting Trustees for such purposes, at their office, No. 5 Nassau Street, in the City of New York.

Dated, New York, February 1, 1905.

GRENVILLE M. DODGE,
FREDERIC P. OLCOTT,
H. WALTERS,
HENRY BUDGE,
J. KENNEDY TOD,
Voting Trustees.

Referring to the foregoing notice, the exchange of stock trust certificates for stock certificates may be made at any time after the first day of April, 1905, but not more than 100 schedules per diem will be received by the undersigned.

All stock trust certificates surrendered for exchange must be properly endorsed by the registered holder thereof, either in blank or to the order of the Voting Trustees. If stock trust certificates are desired in any name other than that appearing on the face of the surrendered trust certificate, the endorsement by the registered holder must be acknowledged before a Notary Public, or be attested by some person or firm satisfactory to the undersigned.

Holders transmitting the trust certificates by mail or express will please indicate whether they desire the stock certificates to be sent by mail or by express at their expense.

In exchange for all stock trust certificates so surrendered, there will be delivered receipts entitling the party therein named to receive stock certificates of the character and amount specified therein as soon as they can be prepared for delivery.

HALLGARTEN & CO.

INTERNATIONAL MERCANTILE MARINE COMPANY

Voting Trust Dissolution. Notice and Call.

Holders of stock trust certificates of the Voting Trustees under the Voting Trust Agreement dated October 28, 1902, by and between International Navigation Company, Ltd., and J. Pierpont Morgan and others, as Voting Trustees, which said agreement was extended so as to expire October 1, 1917, are hereby notified that in the exercise of the discretionary powers vested in them by said Voting Trust Agreement, the Voting Trustees have resolved and determined that the said Voting Trust shall terminate February 23, 1915, and that on and after said date certificates for preferred stock and for common stock of International Mercantile Marine Company, shall and may be delivered upon surrender of and in exchange for corresponding stock trust certificates of the Voting Trustees.

All holders of stock trust certificates issued under said Agreement are hereby called upon to exchange the same for corresponding certificates of capital stock of International Mercantile Marine Company on or after February 23, 1915.

Exchanges will be made at the agency of the Voting Trustees, 51 Newark Street, Hoboken, New Jersey.

No stock trust certificates will be received except upon payment of the amount of the Federal stock transfer stamp tax of two cents per share.

Dated, Hoboken, New Jersey, December 23, 1914.

J. Bruce Ismay,
Pirrie,
P. A. B. Widener,
Charles Steele,
Surviving Voting Trustees.

December 23, 1914.

To the Holders of Stock Trust Certificates for Preferred and Common Stock of International Mercantile Marine Company:

Pursuant to the above notice and call, the Voting Trustees will be prepared, on and after February 23, 1915, to begin delivery of certificates of stock in exchange for stock trust certificates at the Agency of the Voting Trustees of the International Mercantile Marine Company, No. 51 Newark Street, Hoboken, New Jersey.

One hundred schedules per diem will be received.

For all stock trust certificates surrendered for exchange, together with the amount of the Federal stock transfer stamp tax, there will be delivered vouchers entitling the holder to receive stock certificates as soon as prepared for delivery.

Holders transmitting stock trust certificates by mail will please indicate whether they wish the new securities to be sent by registered mail or by express at their expense.

J. P. Morgan & Co.,
Agents for Voting Trustees.

NATIONAL RAILROAD COMPANY OF MEXICO

To Holders of Trust Certificates for Preferred and Common Stock of National Railroad Company of Mexico, issued under the Voting Trust Agreement dated the 15th day of March, 1902:

Notice is hereby given of the dissolution of the above-mentioned Voting Trust Agreement and that on the 27th day of July, 1903, the undersigned Voting Trustees will, in accordance with the terms of said agreement, in exchange for and upon the surrender of any stock trust certificates then outstanding, make delivery of certificates of stock of the National Railroad Company of Mexico.

All holders of stock trust certificates issued under said voting trust are hereby required to exchange them for certificates of capital stock on said 27th day of July, 1903.

Stock trust certificates must be presented for exchange to Speyer & Co., at their office in the City of New York, or to Speyer Brothers, at their office in the City of London, or to Teixeira de Mattos Brothers, at their office in the City of Amsterdam, the agents of the Voting Trustees for such purposes.

Dated, New York, June 25th, 1903.

JAMES SPEYER,
JACOB H. SCHIFF,
EDGAR SPEYER,
Voting Trustees.

NORTHERN COLORADO POWER COMPANY

To the Holders of Voting Trust Certificates Representing Preferred or Common Stock of the Northern Colorado Power Company:

The undersigned, Harry Bronner, James N. Wallace and John F. Wallace, Voting Trustees under the agreement dated May 15, 1906, between J. J. Henry, Harry Bronner, George C. Smith and James N. Wallace, as extended by an agreement dated May 9, 1911, be-

tween Norman Hall and the undersigned, having decided to terminate the Voting Trust existing by virtue of said agreements and to make delivery to the holders of voting trust certificates outstanding under said agreements, of the certificates of stock of The Northern Colorado Power Company, preferred and common, represented by said voting trust certificates.

The undersigned have, therefore, pursuant to the terms of said agreements deposited with Central Trust Company of New York certificates, accompanied by proper instruments of transfer in blank, of stock in The Northern Colorado Power Company to the respective amounts of the preferred and common stock of said Company called for by the voting trust certificates outstanding with authority in writing to said Central Trust Company of New York to deliver the same in exchange for voting trust certificates when and as surrendered for exchange, duly endorsed for transfer in blank.

You are requested to surrender your voting trust certificates, duly endorsed for transfer or accompanied by proper instruments of transfer in blank, to Central Trust Company of New York, on January 30, 1913, or as soon thereafter as possible for exchange into stock certificates.

Holders of outstanding voting trust certificates issued under said voting trust agreement, dated May 15, 1906, and who did not become parties in said extension agreement dated May 9, 1911, are requested to surrender their voting trust certificates, duly endorsed in blank for transfer or accompanied by proper instruments of transfer in blank, to Central Trust Company of New York, for exchange into stock certificates as soon as possible.

Dated, New York, January 14, 1913.

HARRY BRONNER,
JAMES N. WALLACE,
JOHN F. WALLACE,
Voting Trustees.

NORTHERN PACIFIC RAILWAY COMPANY

Voting Trustees

November 12, 1900

The undersigned being all of the Voting Trustees named in and made parties to a certain Agreement made in the City of New York, December 1, 1896, by and between J. P. Morgan & Co., Reorganization Managers, parties of the first part, and the undersigned Voting Trustees, parties of the second part, have resolved and determined, and hereby do resolve and determine, that delivery of stock certificates under the said Agreement, in exchange for stock trust certificates issued in respect thereof, shall be made before the first day of November, to wit, whenever on or after the second day of January, 1901, any such stock trust certificates may be received by the Voting Trustees for such exchange. The undersigned further have resolved and determined, and hereby further do resolve and determine, that upon the receipt of any such stock trust certificates at any time on or after the second day of January, 1901, the Voting Trustees and their agents, Messrs. J. P. Morgan and Co., and the Deutsche Bank be and hereby they are authorized and directed from time to time to deliver certificates of stock of the Northern Pacific Railway Company to the amount and of the character specified in the stock trust certificate so received by them; and the Voting Trustees and their said agents are hereby authorized to do and to perform all acts reasonably necessary or proper to enable them to make such exchange and delivery; provided that upon receipt thereof, every surrendered stock trust certificate shall be cancelled. Exchanges and deliveries may be made at the rate of one hundred schedules per diem.

All stock certificates held by the Voting Trustees or their agents, J. P. Morgan & Co. or the Deutsche Bank, after cancellation shall be delivered by them to the Railway Company as custodian to hold the same, for the protection of the Voting Trustees.

The undersigned further have resolved and determined, and hereby

further do resolve and determine, that a Notice and a Call, substantially in the form of that hereunto annexed, shall be published in one or more newspapers in each of the Cities of New York, Berlin, and London, once in each week for ten weeks beginning on or about the 13th day of November, 1900, and that a circular stating the results of the management of the railway during the continuance of the Voting Trust be mailed to the holders of stock trust certificates.

J. Pierpont Morgan,
Georg von Siemens,
Johnston Livingston,
August Belmont,
Charles Lanier,
} *Voting Trustees.*

NORTHERN PACIFIC RAILWAY COMPANY

Voting Trustees

Notice and Call

Holders of Stock Trust Certificates issued by or in behalf of the Voting Trustees under the Agreement made December 1, 1896, by and between J. P. Morgan & Co., Reorganization Managers, under a certain Plan and Agreement for the Reorganization of the Northern Pacific Railroad System, parties of the first part and the Voting Trustees, parties of the second part, thereto, are hereby notified that in the exercise of their discretionary powers reserved and authorized by the said Voting Trust Agreement, the Voting Trustees have resolved and determined that certificates for the stock of the Northern Pacific Railway Company shall and may be delivered in exchange for and upon surrender of corresponding stock trust certificates before the first day of November, 1901, to wit at any time on or after the 2d day of January, 1901.

All holders of the Stock Trust Certificates issued under said Agreement are hereby called upon to exchange the same for corresponding certificates of capital stock of the Northern Pacific Railway Company at any time on or after the 2d day of January, 1901.

All Stock Trust Certificates surrendered for exchange must be properly endorsed in blank by the registered holder thereof.

Stock Trust Certificates issued in New York must be presented for exchange to J. P. Morgan & Co., agents of the Voting Trustees in New York. Stock Trust Certificates issued in Berlin must be presented for exchange to the Deutsche Bank, agents of the Voting Trustees in Berlin. Such exchanges may be made on or after the second day of January, 1901; but not more than one hundred schedules per diem will be received by the Agents in either city.

In exchange for all Stock Trust Certificates so surrendered, there will be delivered vouchers entitling the party therein named to receive stock certificates of the character and amount therein specified as soon as the same can be prepared for delivery.

J. Pierpont Morgan,
Georg von Siemens,
Johnston Livingston,
August Belmont,
Charles Lanier,
} *Voting Trustees.*

COLORADO MIDLAND RAILWAY COMPANY

Stock Trust Certificates

Notice is hereby given that the Voting Trustees, with the written consent of the holders of a majority in interest of the outstanding Stock Trust Certificates, have sold all of the stock of the Colorado Midland Railway Company represented by said certificates, and that holders of certificates will be paid therefor at the rate of $30 per share for Preferred Stock and $12.50 per share for Common Stock at the office of the Central Trust Company, 54 Wall Street, New York, after July 2, 1900, upon surrender of their certificates duly endorsed in blank.

New York, July 2, 1900.

Frederic P. Olcott,
Chairman, Voting Trustees.

LONG ISLAND RAILROAD COMPANY

To the Holders of Voting Trust Certificates of Stock of the Long Island Railroad Co., issued by the United States Mortgage & Trust Co., Agent, under the Agreement of February 1st, 1897:

You are hereby notified that an agreement has been made for the sale of the majority of the capital stock of the Long Island Railroad Company represented by the Voting Trust Certificates issued under the agreement of February 1st, 1897. On application at the office of the United States Mortgage and Trust Company, prior to June 1st, 1900, full particulars will be given to any certificate-holder. It is important that every holder who desires to avail himself of this opportunity to dispose of his interest should communicate in person with the undersigned within the time mentioned.

UNITED STATES MORTGAGE & TRUST CO.,
Agent.
by GEORGE W. YOUNG,
President.

NEW YORK, May 14, 1900.

The Transfer Books of the Voting Trustees for Voting Trust Certificates representing shares of stock of the Long Island Railroad Company will be closed at 3:00 P. M. on June 1st, 1900, and will remain closed until further notice.

UNITED STATES MORTGAGE & TRUST CO.,
Agent for the Voting Trustees.
by GEORGE W. YOUNG,
President.

ST. LOUIS, IRON MOUNTAIN AND SOUTHERN RAILWAY COMPANY

IN PURSUANCE OF THE AREEMENT, dated November 27, 1878 under which nearly all the shares of stock of the St. Louis, Iron Mountain

& Southern Railway Company have been transferred to us, as trustees of the stock Trust therein mentioned, notice is hereby given to all to whom it may concern, that the said railway company has notified us that it claims that the time has arrived, when, according to the provisions of said agreement, the said stock trust is to terminate, and that in our opinion it is so, and that we intend to take action accordingly by transferring the said shares of stock to the Farmers' Loan and Trust Company for distribution, after the publication of this notice, for the time and in the manner prescribed by the said agreement in that behalf.—Dated New York, March 13, 1880.

Trustees { Robert Lenox Kennedy,
Samuel G. Ward,
Thomas Allen,
Nelson M. Beckwith,
Charles H. Marshall.

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Printed in the United States of America.

THE following pages contain advertisements of a few of the Macmillan books on kindred subjects

Property and Contract in Their Relation to the Distribution of Wealth

By RICHARD T. ELY, Ph.D., LL.D.
Of the University of Wisconsin
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